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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

PARASDEEP SINGH

Petitioner,

v.

Jeremy CASEY, Senior Warden Imperial Regional Detention Facility; Patrick, DIVVER, Field Office Director of Enforcement and Removal Operations, San Diego Field Office, Immigration and Customs Enforcement; David VENTURELLA, Acting Director, U.S. Immigration and Customs Enforcement; Markwayne MULLIN, U.S. Department of Homeland Security; Todd BLANCHE, Acting U.S. Attorney General;

Respondents.

Case No. **'26CV4546 LEK BJW**

PETITION FOR WRIT OF HABEAS CORPUS

COME NOW Parasdeep Singh for this Writ of Habeas Corpus against Respondents alleges as follows:

INTRODUCTION

1. This case challenges the unlawful re-detention of Parasdeep Singh ("Petitioner" or "Mr. Singh"), who has been detained since November 6, 2025, without being provided with a bond hearing or any opportunity to seek his release from custody or to challenge his re-detention by the Respondents.
2. Petitioner is currently detained at the Imperial Regional Adult Detention Facility in Calexico, California. (*See*, **Exhibit A**).
3. Petitioner entered the United States without inspection on or about October 28, 2022, to seek asylum based on persecution he suffered in native country of India.
4. Petitioner was placed in removal proceedings under 8 U.S.C. § 1229(a) and charged with, *inter alia*, having entered the United States without inspection. *See* 8 U.S.C. §1182(a)(6)(A)(i).
5. On or about November 1, 2022, Petitioner was released on his own recognizance pursuant to 8 U.S.C. § 1226(a).
6. In the years since his release, Petitioner has pursued his timely-filed asylum application; complied with the conditions of his release imposed by Immigration and Customs Enforcement ("ICE"); attended his removal proceedings; and been granted employment authorization.
7. Petitioner has no relevant criminal record and has no pending criminal charges.

8. On or about November 6, 2025, Petitioner was re-detained by Respondents while he was unloading his commercial truck at a warehouse in Calexico, California.

9. Petitioner's re-detention was not based on an individualized determination that he presented either a risk of flight or danger to the community or national security. In fact, ICE previously determined he was not a risk of flight or a danger to the community when he was released in 2022 as this determination was required by law prior to Petitioner's release in November 2022. *See*, 8 C.F.R. § 1236.1(c)(8) (delegating to DHS officers authority to grant a bond or release a detainee on conditional parole after an individual determination of whether Petitioner is (1) a "danger to property or persons" and (2) is "likely to appear for any future proceeding").

10. Respondents have not provided Petitioner with any individualized determination regarding his re-detention; notice of the reason(s) or changed circumstances requiring his re-detention; or any process by which he could challenge the factual or legal basis for his re-detention.

11. Accordingly, Respondents re-detained Petitioner in violation of his Fifth Amendment right to Due Process and Petitioner now petitions this Court to order his immediate release from the Respondents' custody.

12. Respondents' failure to provide a pre-deprivation hearing violated Petitioner's Fifth Amendment right to due process. *See, e.g.*, *Pablo Sequen v. Albarran*, __ F. Supp. 3d. __, No. 25-cv-06487 PCP, 2025 WL 2935630, at *5 (N.D. Cal. Oct. 15, 2025); ("[Petitioners] have demonstrated a likelihood of success on the merits of their claim that the Due Process Clause of the Fifth Amendment entitles them to a hearing before ICE may re-detain them."); *Salazar v. Casey*, No. 25-cv-2784 JLS (VET), 2025 WL 3063629, at *5 (S.D. Cal. Nov. 3, 2025) (granting habeas where respondents failed to provide "proper notice, reasoning, and a pre-

deprivation hearing," and thus "detained Petitioner . . . in violation of the Due Process Clause"); *Hyppolite v. Noem*, No. 24-cv-4304 (NRM), 2025 WL 2829511, at *7 (E.D.N.Y. Oct. 6, 2025) ("When Respondents placed [the petitioner] under arrest without notice and an opportunity to be heard," and "then imprisoned him . . . without a pre-deprivation bond hearing, they violated his established right to procedural due process.").

13. Any attempt by the Petitioner to seek a custody redetermination and release on bond with the Department of Justice's ("DOJ") subagency the Executive Office for Immigration Review's ("EOIR") and its Immigration Courts is futile as EOIR has repeatedly refused to comply with court orders in *Maldonado Bautista v. Santacruz Jr.*, 5:25-cv-01873 (C.D. Cal.) and continues to deny bond hearings for individuals such as Petitioner who are present in the United States without admission pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (holding "Immigration Judges lack authority to hear bond request or to grant bond to aliens who are present in the United States without admission").

14. On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*" and further instructing all Immigration Judges to continue to apply *Matter of Yajure Hurtado* to deny bond hearings to individuals such as Petitioner who entered the United States without inspection.

15. The holding in *Matter of Yajure Hurtado* relies on the same statutory analysis and interplay between 8 U.S.C. § 1225 and 8 U.S.C. § 1226 which has been rejected by the district court in *Maldonado Bautista,* district courts in this district and this circuit, and district courts around the country.

16. As one district has stated: "To put it into perspective, [a]t least 225 judges have ruled in more than 700 cases that this particular mandatory detention practice is illegal. And that number continues to grow each day." *Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at *1 (D.R.I. Dec. 5, 2025) (citation omitted).
17. Petitioner is in the physical custody of Respondents at the Imperial Regional Adult Detention Facility. He now faces unlawful detention because the Respondents continue to implement their unlawful policies subjecting Petitioner to wrongful and unlawful immigration detention without an opportunity to pursue his statutory right to seek release on bond or conditional parole. *See*, 8 U.S.C. § 1226(a)
18. Petitioner's detention on this basis violates the plain language of the INA and its implementing regulations.
19. Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended on arrival in the United States. It states that an "applicant for admission" who is "seeking admission" shall be detained for a removal proceeding. *Id.*
20. It does not apply to individuals like Petitioner, who are arrested and detained by ICE in the interior of the United States, after having entered and begun residing in the United States and thus are not "seeking admission."
21. The only potential statute which could govern Petitioner's detention is 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond.
22. Respondents' new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Respondents have applied § 1226(a) to people like Petitioner.

23. Petitioner's arrest and ongoing detention are causing him immense harm, depriving him of physical liberty, subjecting him to incarceration, depriving him of the capacity to earn a livelihood; causing his physical, mental, and emotional pain and anguish due to his unlawful confinement; severely limiting his ability to speak with and consult his attorneys, while at the same time having his removal proceedings fast-tracked on the EOIR's detained docket.

24. Because Respondents' on-going detention of Petitioner violates his Fifth Amendment right to due process and his statutory right to seek release on bond or conditional parole in violation of the INA, the Court should accordingly order the Respondents to immediately release Petitioner. *See*, *Munaf v. Green*, 553 U.S. 674, 693 (2008) (release from detention is the "typical remedy" for "unlawful executive detention."

JURISDICTION

25. Petitioner is in the physical custody of Respondents at the Imperial Regional Adult Detention Facility in Calexico, California.

26. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

27. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

28. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Southern District of California, the judicial district in which Petitioner currently is detained.

29. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

30. Habeas corpus is "perhaps the most important writ known to the constitutional law . . .[and] affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

31. For this reason "Special solicitude is required" and "[t]he application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action ... within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

32. "[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

33. Habeas corpus "entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to 'the erroneous application or interpretation' of relevant law." *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (*quoting INS v. St. Cyr*, 553 U.S. 289, 302 (2001)); *see also*, *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023)

34. The statute itself requires "A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted." 28 U.S.C. § 2243.

35. "The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

36. Accordingly, a district court may grant a writ of habeas corpus when an individual demonstrates that his or her detention violates the laws or Constitution of the United States. 28 U.S.C. § 2241(c)(3).

PARTIES

37. Petitioner Parasdeep Singh is a citizen of India who has been in immigration detention since November 6, 2025. After Petitioner was arrested by immigration authorities in Calexico, California, ICE did not consider any changed circumstances requiring his detention considering his prior release on conditional parole, did not set a bond for him to secure his release, and did not otherwise engage in any individualized process to consider the necessity or propriety of his detention. Petitioner has resided in the United States since on or about November 1, 2022.

38. Respondent Jeremy Casey is the Senior Warden of the Imperial Regional Detention Facility, the detention facility where Petitioner is detained and has immediate physical custody of Petitioner. Accordingly, Respondent Casey is Petitioner's immediate custodian. Petitioner Casey is sued in his official capacity.

39. Respondent Patrick Divver is the Field Office Director of Enforcement and Removal Operations for the San Diego Field Office of Immigration and Customs Enforcement. As such, Respondent Divver is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. Respondent Divver is sued in his official capacity.

40. Respondent David Venturella is the Acting Director, U.S. Immigration and Customs Enforcement and as such is responsible for overseeing all of ICE's operations and activities, including Petitioner's current detention. Respondent Venturella is sued in his official capacity.

41. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in her official capacity.

42. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

BACKGROUND

43. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

44. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).

45. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under § 1225(b)(2).

46. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

47. This case concerns the detention provisions at § 1226(a) and § 1225(b)(2). The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

48. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 but were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

49. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also*

H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

50. Within the past year, Respondents have adopted an entirely new interpretation of the statute. On May 15, 2025, the BIA in *Matter of Q. Li.*, 29 I&N Dec. 66 (BIA 2025) issued a published decision holding that an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is ineligible for IJ bond hearing under 8 U.S.C. § 1225(b)(2)(A).

51. On July 8, 2025, ICE, "in coordination with the Department of Justice (DOJ)," announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice.

52. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). *Id.* The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

53. It is estimated that this novel interpretation of the INA would require a person's detention any time that immigration authorities arrest one of the millions of immigrants residing in the United States who entered without inspection and who has not since been admitted or paroled.[1]

[1] Maria Sacchetti & Carol D. Leonnig, ICE declares millions of undocumented immigrants ineligible for bond hearings, Washington Post (July 14, 2025), https://www.washingtonpost.com/immigration/2025/07/14/ice-trump undocumented-immigrants-bond-hearings/ [https://perma.cc/5ZTR-EN4B].

54. According to news reports, immigration officials within the Trump administration requested this new policy in response to Congress's recent appropriation of billions of dollars to expand the immigration system, given that the ICE will soon have capacity to detain more than twice as many people on any given day.[2]

55. On September 5, 2025, the BIA in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) held that Immigration Judges lack jurisdiction to hold bond hearings or to redetermine the custody of any noncitizen who is present in the United States without having been admitted.

56. In accordance with *Matter of Yajure Hurtado*, EOIR has refused to determine bond for any person who has entered the United States without inspection, even if that person has resided here for months, years or decades. Instead, consistent with the BIA decisions and the new DHS policy, the IJs are concluding such people are subject to mandatory detention under § 1225(b)(2)(A).

57. Consistent with its new policy, DHS also has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination. This notice not only appeals any IJ decision granting bond but also triggers an automatic stay of the bond decision during the appeal. *See*, 8 C.F.R. § 1003.19(i)(2).

58. The "auto-stay" provision of 8 C.F.R. § 1003.19(i)(2) prevents noncitizens from posting bond and being released even in jurisdictions where IJs have rejected DHS's unlawful reinterpretation of § 1225(b)(2) and have granted bond.

59. ICE and DOJ have adopted this new and unprecedented position on bond even though federal courts have rejected this exact conclusion. For example, in the Tacoma, Washington,

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[2] See Michelle Hackman, New ICE Policy Blocks Detained Migrants From Seeking Bond, Wall Street Journal (July 15, 2025), https://www.wsj.com/politics/policy/new-ice-policy-blocks-detained-migrants from-seeking-bond-f557402a [https://perma.cc/K8NY-DAAZ].

immigration court, IJs previously stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, reasoning such people are subject to mandatory detention under § 1225(b)(2)(A). There, in granting preliminary injunctive relief, the U.S. District Court for the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (ordering release and concluding that noncitizen detained in the interior of the U.S. is not subject to mandatory detention pursuant to § 1225 under the plain meaning of §§ 1225 and 1226 and the case law interpreting those provision); *Samb v. Joyce*, 2025 WL 2398851 (S.D.N.Y. Aug. 19, 2025) (order noncitizen released and holding that he was not subject to mandatory detention as a noncitizen "seeking admission" to the country under 8 U.S.C. § 1225, but rather is subject to detention under § 1226); *Gomes v. Hyde*, No. 1:25-CV 11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Diaz Martinez v. Hyde*, No. CV 25-11613 BEM, --- F. Supp. 3d ---- 2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (ordering release where noncitizen was re-detained based on ICE's assertion of detention authority under § 1225(b)).

60. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court and other courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

61. Additionally, the federal district court in the Central District of California issued a class-wide declaratory judgment holding that for individuals such as Petitioner, § 1226(a), not § 1225(b)

governs their detention, further vacated the DHS guidance and vacated *Matter of Yajure Hurtado* as violating the Administrative Procedure Act. *See, Maldonado Bautista v. Santa Cruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. February 18, 2026).

62. Nonetheless, Respondents continue with their unlawful detention policies, including re-detaining Petitioner without providing any notice explaining the reasons for his re-detention or a hearing by which Petitioner could challenge his re-detention.

63. Further, Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

64. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Just this past year, Congress enacted subparagraph (E) in the Laken Riley Act to exclude certain noncitizens who entered without inspection from § 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons inadmissible under § 1182(6)(A), *i.e.*, persons inadmissible for entering without inspection, makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

65. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the

border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A); see also *Diaz Martinez*, 2025 WL 2084238, at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

66. Through its text, 8 U.S.C. § 1225 refers to "inspections"—a term not defined in the INA but which typically connotes an examination upon or soon after physical entry. *See* § 1225 (titled "Inspection by immigration officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing"); §§ 1225(b)(1)–(2) (referring to "inspections" in their titles); § 1225(d)(1) (authorizing immigration officials to search certain conveyances in order to conduct "inspections" where noncitizens "are being brought into the United States"). Indeed, many statutory provisions, various regulations and agency precedent discuss "inspection" in the context of admission process at port of entry, further supporting the conclusion that § 1225 has limited temporal and geographic scope. *See*, e.g., §§ 1187(h)(2)(B)(i); § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010).

67. Indeed, individuals arrested within the United States and placed into removal proceedings are generally detained pursuant to 8 U.S.C. § 1226. *See Jennings*, 583 U.S. at 288-89 (describing § 1226 detention as relating to people "inside the United States" and "present in the country"). They are generally subject to discretionary detention under § 1226(a). These detainees are

entitled to a custody redetermination (colloquially called a "bond hearing") before an IJ to decide whether they should be detained or released. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). A bond hearing with strong procedural protections is not mere regulatory grace; it is the baseline Due Process requirement for § 1226 detainees. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021); *Brito v. Garland*, 22 F.4th 240, 256-57 (1st Cir. 2021) (affirming class-wide declaratory judgment).

68. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

STATEMENT OF FACTS

69. Petitioner is a native and citizen of India.

70. In October 2022, Petitioner came to the United States to seeking asylum and entered through the U.S. Mexico border on or about October 28, 2022.

71. Shortly after, on or about November 1, 2022, Petitioner was detained and processed by processed by immigration officials, served with a Notice to Appear, and released on conditional parole.

72. Petitioner subsequently began working as a commercial truck driver, while continuing to pursue his asylum application in immigration court.

73. On or about November 6, 2025, in the course of his employment, Petitioner was unloading his commercial truck when he was apprehended by ICE.

74. On information and belief, at that time, Petitioner was questioned about his immigration status by the CBP officers, who then arrested and re-detained Petitioner.

75. On information and belief, immigration authorities have been targeting commercial delivery trucks on highways across the country in order to arrest and detain commercial truck drivers who are noncitizens.

76. After arresting Petitioner, CBP transferred Petitioner to the custody of ICE at the Imperial Regional Detention Facility, where he currently remains detained.

77. Petitioner was not provided with an individualized determination as to why his re-detention was necessary.

78. At no time have the Respondents provided Petitioner with any notice of the factual basis or the changed circumstances Respondents believe Petitioner's re-detention is now necessary after having been previously released by ICE in 2022.

79. Respondents have also not provided Petitioner with any process by which he could challenge his re-detention and/or contest the factual and/or legal basis Respondents believe his re-detentions is necessary.

80. On or about April 22, 2026, Petitioner's appeal of his removal order and denial of his asylum application were dismissed by the Board of Immigration Appeals.

81. Petitioner's Petition for Review for denial of his asylum application is currently pending before the U.S Court of Appeals for the Seventh Circuit.

82. Petitioner has now been detained for more than 90 days since his removal order has become administratively final and his removal from the United States is not reasonably foreseeable. *See*, 8 U.S.C § 1231

83. Additionally, Petitioner has been detained for 10 months in civil immigration detention without an opportunity to seek his release, which constitutes unreasonably prolonged detention.

84. Without relief from this Court, Petitioner faces the prospect of months, or even years, in immigration custody without any opportunity to contest his detention or seek his release.

85. Any attempt to seek bond before EOIR is futile as DHS's mandatory detention policy was issued in coordination with DOJ. Further, EOIR is a component agency of DOJ and on September 5, 2025, the BIA in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), held that persons like Petitioner are subject to mandatory detention as applicants for admission and not entitled to custody redetermination by an Immigration Judge.

CLAIMS FOR RELIEF

COUNT I
Violation of the Due Process Clause
U.S. Constitution 5th Amendment

86. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

87. The Fifth Amendment provides that "[n]o person" shall be deprived of life, liberty, or property, without due process of law."

88. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

89. Moreover, "[t]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

90. "[E]ven when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody [he] has a protected liberty interest in remaining out of custody." *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025).

91. In fact, the government's initial release of an individual from custody "creates an 'implicit promise' that the individual's liberty will be revoked only if they fail to abide by the conditions of their release." *Calderon v. Kaiser*, No. 25-cv-06695-AMO, 2025 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025) (*quoting Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)).
92. ICE initially releasing Petitioner constituted "a determination by the government that [an individual is] neither a flight risk nor a danger to the community." *Pinchi*, 792 F. Supp. 3d at 1034; *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, *7 (N.D. Cal. Sept. 12, 2025).
93. Accordingly, Respondents may not re-arrest Petitioner "absent a change in circumstances." *Salcedo Aceros* 2025 WL 2637503, at *1 (*citing Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017)).
94. "The constitution typically 'requires some kind of a hearing before the State deprives a person or liberty or property.'" *G.S. v. Bostock*, No. 2:25-CV-01255-JNW-TLF, 2025 WL 3014274 (W.D. Wash. Oct. 8, 2025), *report and recommendation adopted sub nom. G.S. v. Bostock*, No. 2:25-CV-01255-JNW-TLF, 2025 WL 3014035 (W.D. Wash. Oct. 28, 2025) (*quoting Zinermon v. Burch*, 494 U.S. 113, 127 (1990)).
95. Since Petitioner has not been provided with any process prior to or post-deprivation, Due Process requires his immediate release.
96. Here, "the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)

97. "It is clear that there is a significant risk that the government will erroneously deprive [Petitioner] of that liberty interest if it does not provide [him] with a pre-detention hearing." *Pinchi*, 792 F. Supp. 3d at 1035.

98. Since Petitioner has received no hearing or process to challenge his detention, "'the risk for erroneous deprivation [of liberty] is high' because neither the government nor [Petitioner] has had an opportunity to determine whether there is any valid basis for [his] detention." *Id.* (quoting *Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679 (E.D. Cal. July 11, 2025)).

99. Finally, the government has no interest in detaining Petitioner without a hearing as "in immigration court, custody hearings are routine and impose a minimal cost." *Singh*, 2025 WL 1918679, at *8 (internal quotation marks and citation omitted).

100. In fact, until recently, bond hearings were the norm in immigration courts around the country.

101. Respondent's re-detention of the Petitioner after his previous release on conditional parole without first providing Petitioner with adequate notice of the factual and legal basis for his re-detention and a pre-deprivation hearing violates his right to due process under the Fifth Amendment.

102. Respondents' on-going mandatory detention of Petitioner without consideration for release on bond or access to a bond hearing violates his due process rights under the Fifth Amendment.

103. Additionally, Petitioner is currently being detained beyond the 90 day period of time since his final order of removal became effective on April 22, 2026 and is thus entitled to be released from custody.

104. Furthermore, Petitioner has been detained for over 10 months in civil immigration detention, which is unconstitutional and unreasonably prolonged detention in violation of his Fifth Amendment rights.

105. Accordingly, this Court should order Petitioner immediately released from Respondents' custody.

COUNT II
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

106. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

107. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to Petitioner who previously entered the country and has been residing in the United States prior to being apprehended and detained by Respondents.

108. Petitioner can only be lawfully detained under § 1226(a) and is thus eligible for release on bond, since he is not subject to § 1225(b)(1), § 1226(c), or § 1231.

109. Nonetheless, Respondents have adopted and implemented a policy and practice of applying § 1225(b)(2) to Petitioner and similarly situated individuals.

110. The unlawful application of § 1225 to Petitioner unlawfully mandating his continued detention violates Petitioner's statutory rights to a bond hearing under the INA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from detention;

c. Order that Respondents may not re-detain Petitioner absent compliance with constitutional protections, which include, at a minimum, pre-deprivation notice--describing the change of circumstances necessitating his arrest and detention -- to be provided no less than seven (7) days prior to a pre deprivation bond hearing. The hearing shall be before a neutral arbiter pursuant to § 1226(a) and it's implementing regulations. At any such hearing, the government shall bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight; additionally the hearing officer should consider alternatives to detention and if setting a bond, Petitioner's capacity to pay; and Petitioner shall be allowed to have his counsel present.

d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) and its implementing regulations within seven days;

e. Further order that the bond hearing shall be before a neutral arbiter pursuant to § 1226(a) and its implementing regulations. At any such hearing, the government shall bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight; additionally the hearing officer should consider alternatives to detention and if setting a bond, Petitioner's capacity to pay; and Petitioner shall be allowed to have his counsel present.

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Dated: August 7, 2026

Respectfully submitted,

/s/ Curtis Lee Morrison

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