UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

R-J-S-V-, an adult,

Petitioner,

v.

JULIO HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations; DAVID J. VENTURELLA, Acting Director of U.S. Immigration Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, Acting Attorney General of the United States; BRUCE SCOTT, Warden, Northwest ICE Processing Center; DAREN K. MARGOLIN, Director of Executive Office for Immigration Review.

Respondents.

Case No.:

Agency No. A-file XXX-XXX-817

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

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INTRODUCTION

1. In Oregon, on the morning of October 18, 2025, Petitioner, a citizen of Venezuela and applicant for humanitarian protection, was driving to the store for his then-pregnant fiancée when ICE agents swarmed his car and detained him. But, some 18 months before, in February 2024, ICE had released him from custody.

2. Now, after he was arrested and detained, ICE fabricated a whole series of different theories for his detention. First, they told him he was being arrested because he was undocumented. Then, they issued an after-the-fact warrant for his arrest asserting power under 8 U.S.C. § 1226(a) to detain him. But that has never been true. Petitioner's detention has always been governed by 8 U.S.C. § 1231(a) and he has been authorized to be in the United States. So, then later searching for some other justification for their agency action, ICE asserted that his detention was to effectuate his removal order. But that was not true either.

3. ICE detained Petitioner not based on his personal circumstances or individualized facts, but because of their need for quotas as part of their interpretation of President Trump's order that they "do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History."[1] Petitioner was arrested unlawfully by ICE as part of Operation Black Rose, a DHS operation in which ICE agents made unprovoked, destabilizing community sweeps throughout Oregon. *M-J-M-A- v. Hermosillo,* 822 F. Supp. 3d 1147, 1157 (D. Or. 2026) ("ICE officers are casting dragnets over Oregon towns they believe to be…'target rich.'").

[1] Pres. Donald Trump, @realDonaldTrump, Truth Social (June 15, 2025, 5:43pm) ("ICE Officers are herewith ordered, by notice of this TRUTH, to do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History.").

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4. But Respondents' power to detain remains checked by law, as this country remains "a government of laws and not of men," *Cooper v. Aaron*, 358 U.S. 1, 23 (1958) (Frankfurter, J. Concurring) (cleaned up), and the government should not be empowered to operate under an "arrest first, justify later"[2] scheme and blatantly ignore the law. ICE broke the law when they arrested and detained Petitioner in October 2025. The law requires ICE to engage in a meaningful process, including reasonable notice and a meaningful opportunity to be heard, before revocation of § 1231(a)(6) supervised release.

5. Moreover, ICE is breaking the law again by maintaining detention over Petitioner even though his removal is not reasonably foreseeable. Petitioner has been detained for eight months. His claim for humanitarian protection remains pending and will foreseeably remain pending for an indefinite period. Petitioner is being held in unlawful executive detention and the Court should grant the writ of habeas corpus and order his immediate release under the same conditions imposed by ICE previously. *See Saley v. Scott*, No. 2:26-cv-00797-JNW, 2026 WL 914810 at *4 (W.D. Wash. April 3, 2026) ("a 'post-deprivation hearing[ ] cannot serve as an adequate procedural safeguard because [it occurs] after the fact and [thus] cannot prevent an erroneous deprivation of liberty'" (citing *Ledesma Gonzalez v. Bostock*, Case No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *8–9 (W.D. Wash. Oct. 7, 2025)).

[2] *See, e.g.,* Transcript of July 14, 2025 Oral Hearing in *O-J-M- v. Bostock*, Case No. 3:25-cv-00944-AB, 2025 WL 1943008 (D.Or. July 14, 2025), available at https://innovationlawlab.org/sites/default/files/2025-09/071425_OJM-v.-Bostock.pdf (last visited June 9, 2026), noting "The problem here is that despite the legal authority the government unquestionably has, the government here failed to follow its own rules. They arrested first, they sought to justify later."

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JURISDICTION

6. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 et seq.

7. This court has subject matter jurisdiction and may grant relief under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Venue is proper because Petitioner is in Respondents' custody at the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the judicial district in which Petitioners are currently in custody.

10. 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 Western District of Washington.

REQUIREMENTS OF 28 U.S.C. § 2241, 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a

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return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. INS.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is "a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination").

PARTIES

13. Petitioner **R-J-S-V-** is 31 years old. He is a resident of Portland, Oregon. He is currently detained in Respondents' custody at the NWIPC in Tacoma, Washington.

14. Respondent **Julio Hernandez** is the Field Office Director for ICE's Seattle Field Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington; thus, Hernandez is a legal custodian of Petitioner.

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15. Respondent **David J. Venturella** is the acting director of ICE, and he has authority over the actions of respondent Julio Hernandez and ICE in general. Respondent Venturella is a legal custodian of Petitioner.

16. Respondent **Markwayne Mullin** is the Secretary of Homeland Security and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Mullin is charged with faithfully administering the immigration laws of the United States and is a legal custodian of Petitioner.

17. Respondent **Todd Blanche**, Acting Attorney General of the United States has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

18. Respondent **Bruce Scott** is employed by the private corporation The GEO Group, Inc., as Warden of the NWIPC, where Petitioner is detained. He has immediate physical custody of Petitioner.

19. Respondent **Daren K. Margolin** is the Director of the Executive Office for Immigration Review (EOIR). As such, Director Margolin is responsible for the direction and supervision of EOIR and tasked with executing its mandate.

20. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

Post-Order Detention Authority

21. Congress has authorized DHS to detain noncitizens with orders of removal.

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22. The DHS authority derives from section 1231 of Title 8 of the U.S. Code which governs the detention of noncitizens "during" and "beyond" the "removal period." 8 U.S.C. § 1231(a)(2)-(6). The "removal period" begins once a noncitizen's removal order "becomes administratively final." 8 U.S.C. § 1231(a)(1)(B).[3] The removal period lasts for 90 days, during which ICE "shall remove the [noncitizen] from the United States" and "shall detain the [noncitizen]" as it effectuates removal. 8 U.S.C. § 1231(a)(1)-(2). Even during the 90-day removal period, ICE may still exercise its discretion to release an individual from custody subject to an Order of Supervision. *See* Memorandum from Bo Cooper, INS General Counsel, Detention and Release During the Removal Period of Aliens Granted Withholding or Deferral of Removal (Apr. 21, 2000) (clarifying that even during the 90-day removal period, "the INS may – but is not required to – detain a noncriminal [non-citizen]").

23. If an individual is not removed within the 90-day removal period, the INA presumes that such individual should be released under conditions of supervision, such as periodic reporting and other reasonable restrictions. *See* 8 U.S.C. § 1231(a)(3) (directing that if a noncitizen is not removed within the removal period, the noncitizen "shall be subject to supervision under regulations prescribed by the Attorney General").

24. The government may detain some noncitizens beyond the 90-day removal period only if they meet certain conditions, such as being inadmissible or deportable under specified statutory categories, or if they are determined to be a "risk to the community." 8 U.S.C. § 1231(a)(6). In making a post-removal period custody determination, qualified

[3] There are two other events that trigger the start of the removal period, which are not applicable here. *See* 8 U.S.C. § 1231(a)(1)(B)(ii)–(iii).

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officials must consider a number of enumerated factors that speak to the individual's danger to the community and risk of flight, "including ties to the United States." 8 C.F.R. § 241.4(f).

25. In addition to these regulatory restrictions, the Fifth Amendment to the U.S. Constitution requires that Respondents may not extend a noncitizen's detention under 8 U.S.C. § 1231 indefinitely beyond the 90-day period; "once removal is no longer foreseeable, continued detention is no longer authorized by statute." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (interpreting § 1231 in light of constitutional constraints).

Post-Order Withholding-Only Proceedings

26. Withholding-only proceedings are a special subset of immigration proceedings created to adjudicate withholding of removal and Convention Against Torture (CAT) protection claims. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.2(c)(2).

27. During the pendency of such proceedings, removal to the fear-designated country is prohibited. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R § 1208.5(a).

28. Withholding-only proceedings have multiple stages of review including administrative appellate review to the BIA.

29. DHS is prohibited from removing a noncitizen to the designated country of claimed fear during the pendency of the BIA appeal. 8 C.F.R. § 1003.38(b); 8 C.F.R. § 1003.6(a).

30. Individuals seeking withholding of removal and/or CAT protection may be removed to a third country while their proceedings are pending. However, if ICE identifies an alternative country of removal, ICE must afford the noncitizen appropriate process. This includes giving the noncitizen notice and an opportunity to express fear of deportation to that country. *See Jama v. Immigr. & Customs Enf't.*, 543 U.S. 335, 348 (2005) ("If [noncitizens]

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would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, see 8 C.F.R. §§ 208.16(c)(4), 208.17(a) (2004)[.] "); *Romero v. Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) ("DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims"), rev'd on other grounds by *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021).

Release and Revocation under 8 U.S.C. § 1231(a)

31. ICE may release a noncitizen who is in post-order proceedings, including noncitizens in withholding-only proceedings.

32. Release is statutorily permissible and constitutionally required in certain circumstances.

33. To be constitutional, civil immigration detention must be non-punitive. *Zadvydas*, 533 U.S. at 690–92. If the government seeks to extend a noncitizen's detention beyond six months, it is presumed that continued detention exceeds the "period reasonably necessary to effectuate removal." *Id.* at 699–701.

34. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

35. Where "the detention in question exceeds a period reasonably necessary to secure removal," that warrants a finding that the post-order detention has become unconstitutionally prolonged and release is the proper remedy for such prolonged detention under § 1231(a). *Zadvydas*, 533 U.S. 678 at 699–700.

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36. Section 1231 provides that individuals ordered removed may be released on supervised release. 8 U.S.C. § 1231. When removal is not reasonably foreseeable and the individual is not a danger to the community, release is constitutionally required. *Zadvydas*, 533 U.S. 678 at 699–700.

37. Individuals detained under 8 U.S.C. §1231(a) may be released, subject to supervision that requires the noncitizen to appear before an immigration officer periodically for identification, submit if necessary to medical and psychiatric examination, provide information under oath about relevant matters, and obey reasonable written restrictions on conduct and activities. 8 U.S.C. § 1231(a)(3).

38. DHS uses ICE form I-220B "Order of Supervision" ("OSUP") to memorialize the particular supervision requirements.

39. DHS may revoke supervised release under tightly constrained procedures.

40. For an individual on supervised released, revocation and return to custody is authorized only upon following certain processes and an exercise of discretion by certain authorized officials making individualized findings. 8 C.F.R. §§ 241.13; 241.4(l).

41. Supervised release can be revoked pursuant to 8 C.F.R. § 241.13 or 8 C.F.R. § 241.4. Section 241.13 specifically applies to noncitizens whom ICE has determined are not likely to be removed in the reasonably foreseeable future. *See Machuca Del Cid v. Mullin*, No. C26-1271-SKV, 2026 WL 1295891 (W.D. Wash. May 12, 2026). Under 8 C.F.R. § 241.13, revocation is only allowed if based on a violation of the conditions of release or imminence of removal. 8 C.F.R. § 241.13(i). The noncitizen must be notified of the reason for the revocation. *Id.* They also must be afforded an informal interview and an opportunity to

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present evidence that demonstrates that they have not violated the conditions of release or that their removal is not imminent. *Id.*

42. The notice and opportunity to be heard must be meaningful in order to comport with due process. Notice the same day the release is revoked is insufficient. *See Saley*, 2026 WL 914810, at *4 (finding "notice on the same day is not notice…This Court and other courts in this District have found that due process requires pre-deprivation notice and a hearing before revoking a noncitizen's order of supervision and re-detaining them.")

43. A post-deprivation bond hearing or custody review process does not cure an unlawful revocation of a supervised release. As this Court has affirmed, "a 'post-deprivation hearing[ ] cannot serve as an adequate procedural safeguard because [it occurs] after the fact and [thus] cannot prevent an erroneous deprivation of liberty.'" *Id.* (citing *Ledesma Gonzalez v. Bostock*, Case No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *8–9 (W.D. Wash. Oct. 7, 2025)).

FACTUAL BACKGROUND

Respondents' Detention and Deportation Policies

44. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and

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USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

45. In late May, then-Secretary Kristi Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per day and reportedly threatening job consequences if officials failed to meet arrest quotas.[4]

46. On May 28, Miller confirmed that "[u]nder President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day."[5]

47. Following the directive from Noem and Miller, ICE agents were instructed in an e-mail to "turn the creativity knob up to 11" and aggressively "push the envelope" in arrests, including by pursuing "collaterals"—individuals who by definition would not have warrants.[6] As another e-mail put it: "If it involves handcuffs on wrists, it's probably worth pursuing."[7]

[4] Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The Wall Street Journal (June 9, 2025), https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877; Julia Ainsley, et al., *A Sweeping New ICE Operation Shows How Trump's Focus on Immigration is Reshaping Federal Law Enforcement*, NBC News (June 4, 2025), https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494; Brittany Gibson & Stef W. Kight, *Scoop: Stephen Miller, Noem Tell ICE to Supercharge Immigration Arrests*, Axios (May 28, 2025), available at https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller.

[5] Hannity, *Stephen Miller Says the Admin Wants to Create the Strongest Immigration System in US History*, Fox News (May 28, 2025), available at https://www.foxnews.com/video/6373591405112 (last visited Aug. 24, 2025).

[6] José Olivares, *US Immigration Officers Ordered to Arrest More People Even Without Warrants*, The Guardian (June 4, 2025), https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests.

[7] *Id.*

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48. The overriding message, communicated by and to Respondents, is that agents and officers carrying out immigration operations on the ground must prioritize arrest numbers, regardless of the law. As one ICE official put it earlier this year, all that matters is "numbers, pure numbers, [q]uantity over quality."[8]

49. The District Court for the District of Oregon found that DHS implemented these practices in Oregon. *M-J-M-A-*, 822 F. Supp. 3d at 1157. The Court found that "[t]o serve the President's demands for 3,000 immigration arrests each day nationally" ICE officers deployed to Oregon communities and arrested an "extraordinary" number of Oregonians beginning in October 2025. *Id.* at 1160.

Petitioner's Background

50. Petitioner is a father and a seeker of humanitarian protection based in part on his religion and membership in a particular church community. He was born in 1994 in Venezuela. *See* Petitioner's Declaration (Pet'r Decl.) at ¶¶ 2, 5, 8, 29.

51. Petitioner came to the United States to seek protection. Petitioner is opposed to the current government of Venezuela and fears that he will be persecuted if he returns to Venezuela. *Id.* at ¶ 5.

[8] Jennie Taer, *Trump admin's 3,000 ICE Arrests Per Day Quota is Taking Focus off Criminals and 'Killing Morale': Insiders Warn*, NY Post, June 17, 2025, https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/ ("The Trump administration's mandate to arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets, sources said. 'All that matters is numbers, pure numbers. Quantity over quality,' one Immigrations and Customs Enforcement insider told The Post.").

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52. At his first entry, Petitioner sought humanitarian protection and was ordered removed under 8 U.S.C. § 1225(b). Declaration of Emma Gill ("Gill Decl."), Exh. 3-3 (Form I-220B) at p. 1.

53. At his second and last entry in December 2023, Petitioner sought humanitarian protection again and was detained by Respondents, who later released Petitioner on or about February 28, 2024. Pet'r Decl. at ¶ 6; Gill Decl., Exh. 3-3 (Form I-220B).

54. On information and belief, Respondent ICE released Petitioner from immigration detention pursuant to 8 U.S.C. § 1231(a). ICE issued Petitioner an Order of Supervision (OSUP), which cited his prior removal order that Respondent ICE reinstated on or about January 2, 2024. Gill Decl., Exh. 3-3 (Form I-220B) at p. 1.

55. Upon Petitioner's release, he was given reporting instructions. To the best of his knowledge, since his release in February of 2024, Petitioner substantially complied with the terms of his OSUP, including attending ICE check-ins in person in Virginia and Oregon. Pet'r Decl. at ¶ 7.

56. Shortly after his release, Petitioner moved from Virgina to Oregon and began building his life in the United States: He met his current partner, they moved in together, she became pregnant, and they planned to marry at the end of 2025. *Id.* at ¶ 8. Petitioner also joined a church, regularly attending services and developing a community in Oregon. *Id.*

57. On February 21, 2025, Petitioner was granted employment authorization by Respondent DHS under the (c)(18) category, based on his supervised release, valid until February 20, 2026. Gill Decl., Exh. 3-5 (Employment Authorization Document).

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58. Prior to his detention in October 2025, Petitioner did not receive any information or instructions from ICE to indicate that they intended to imminently remove him to Venezuela or to a third country. Pet'r Decl. at ¶ 9. Petitioner has no criminal history. *Id.* at ¶ 3.

Petitioner's Arrest and Re-detention by DHS

59. DHS arrested and re-detained Petitioner on October 18, 2025. *Id.* at ¶ 10; Gill Decl., Exh. 3-2 (Form I-213) at p. 3.

60. Petitioner was driving near his home in Portland, Oregon when he realized he was being followed by immigration agents. Pet'r Decl. at ¶ 10. He immediately contacted his fiancée, who at the time was six months pregnant with their child, and asked her to contact his immigration counsel. *Id.* at ¶ 11.

61. Upon pulling him over, agents asked Petitioner for his identification, which he provided. *Id.* at ¶ 12. The officers then told Petitioner to get out of the car and pushed him against it, handcuffed, and arrested him. *Id.* The agents did not explain why they were arresting Petitioner. *Id.*

62. Agents placed Petitioner in the back of their car. *Id.* at ¶ 13. Within an hour, agents drove Petitioner out of the District of Oregon and to a parking lot in Vancouver, Washington. *Id.* at ¶ 14.

63. In Vancouver, agents informed Petitioner that he was in ICE detention because he was in the country without documents. *Id.* at ¶ 17. Petitioner informed the immigration agents that he was represented by an immigration attorney. *Id.* at ¶ 14. He asked permission to call his attorney. *Id.* Agents informed Petitioner he could do so once he arrived at NWIPC, but not before. *Id.*

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64. Petitioner also asserted that he was present on an Order of Supervision. *Id.* at ¶ 17. Only after Petitioner mentioned that he was released on an OSUP did agents inform Petitioner that they were revoking his § 1231(a)(6) supervised release. *Id.*

65. The agents did not inform Petitioner of the basis of his release revocation at this time. *Id.* Nor did they provide Petitioner with any documents notifying him that his release had been revoked prior to or at the time of his arrest and re-detention. *Id.*

66. Agents transported Petitioner to NWIPC. *Id.* at ¶ 18.

67. ICE produced an I-213 after Petitioner's arrest. Gill Decl., Exh. 3-2 (Form I-213). The only justification ICE provides for Petitioner's arrest is that he was identified as a noncitizen who had been previously deported. Nowhere in the I-213 does ICE mention the revocation of his § 1231(a)(6) supervised release, or any findings supporting such a revocation. *Id.* at p. 2–4.

68. A few days after his arrival in NWIPC, on or about October 21, 2025, Petitioner was served with a document in English stating that ICE revoked his supervised release, addressed to him at NWIPC. Gill Decl., Exh. 3-4 (Notice of Revocation of Release). While the revocation notice and certificate of service is dated October 18, 2025, the document was not actually delivered to him until days after his arrival at NWIPC. Pet'r Decl. at ¶ 19.

69. This document states that the basis for the revocation, pursuant to 8 C.F.R. § 241.13, was changed circumstances that created a "significant likelihood of removal in the reasonably foreseeable future." Gill Decl., Exh. 3-4 (Notice of Revocation of Release). The document does not enumerate what these changed circumstances are, nor did agents ever

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explain to Petitioner or his attorney what the alleged changed circumstances were. *Id.*; Pet'r Decl. at ¶ 9.

70. The document also states that Petitioner was to be given an informal interview "at which [he] would be afforded an opportunity to respond to the reasons for revocation." Gill Decl., Exh. 3-4 (Notice of Revocation of Release). Petitioner was not given an interview or opportunity to respond after the service of this document. Pet'r Decl. at ¶¶ 19–20.

71. On January 13, 2026, an Immigration Judge found that Petitioner has a statutory right to apply for withholding of removal because he has a reasonable fear of persecution. Gill Decl. at ¶ 11.

72. Respondents initiated withholding-only proceedings. Gill Decl. at ¶ 11. On February 18, 2026, Petitioner applied for withholding of removal and protection under the Convention Against Torture to contest his removal to Venezuela. Pet'r Decl. at ¶ 22; Gill Decl. at ¶ 12.

73. Petitioner had a hearing in immigration court on March 9, 2026, where the immigration judge denied both applications. Pet'r Decl. at ¶ 23; Gill Decl. at ¶ 13.

74. Petitioner timely appealed the denial of his applications to the Board of Immigration Appeals ("BIA"), his appeal is now pending, meaning he is entitled to an automatic stay of removal to Venezuela until his appeal has been adjudicated. Pet'r Decl. at ¶ 23; Gill Decl. at ¶ 14; *id.*, Exh. 3-1; *see also* 8 C.F.R. § 1003.6(a).

75. ICE has never told Petitioner that they may try to remove him to a third country, let alone identified any specific third country to which they might remove him. Pet'r Decl. at ¶ 27; Gill Decl. at ¶ 22. Neither Petitioner nor his parents have citizenship in any

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country but Venezuela. Pet'r Decl. at ¶ 4. On information and belief, Petitioner's removal is not likely in the reasonably foreseeable future.

76. On information and belief, DHS failed to conduct any meaningful individualized custody determination for Petitioner.[9]

77. While being detained, Petitioner has missed both his planned wedding to his partner and the birth of the couple's daughter. Pet'r Decl. at ¶ 28. He has only been able to come to know his infant daughter through video calls and has yet to get the chance to meet her in person or hold her. *Id.* at ¶ 29. His daughter is growing up without him, and his partner is struggling to care for herself and the couple's shared child while Petitioner remains detained. *Id.* at ¶ 30.

[9] Petitioner was not given another opportunity to speak with ICE or to contest his detention until April 2026—six months after he was taken into custody. Pet'r Decl. at ¶ 24. Petitioner was given a *Martinez-Baños* bond hearing on April 21, 2026, wherein the Immigration Judge made a flight risk finding that he subsequently appealed. Gill Decl. at ¶ 21. However, Petitioner maintains that his post-deprivation bond hearing is legally irrelevant because a post-deprivation opportunity to contest his custody status that occurred over six months *after* his unlawful re-detention is plainly insufficient to redress the months of unlawful detention Petitioner has suffered. *See Saley,* 2026 WL 914810, at *4 (a § 1231 OSUP revocation case where the court affirmed "[t]his Court and other courts in this District have found that due process requires pre-deprivation notice and a hearing before revoking a noncitizen's order of supervision and re-detaining them.") Moreover, even if this Court should determine that the immigration judge's bond finding is relevant, it fails on its merits as the process afforded was constitutionally deficient, the immigration judge mischaracterized the record evidence, and the flight risk finding was erroneous because the record evidence in the proceeding cannot support a flight risk finding as a matter of law. *See Segura Serrano v. Hernandez*, No. 2:26-cv-01268-LK, 2026 WL 1674357, at *7 (W.D. Wash. June 1, 2026) (a § 1226(a) bond case holding that a noncitizen's unlawful entries from years prior did not support the flight risk finding, and noting that allowing an unlawful entry to form the basis of a flight risk finding "would effectively transform discretionary detention into de facto mandatory detention" for large swaths of the immigrants detained in DHS custody); *see also Tavurov v. Noem*, No. 2:26-CV-00668-TLF, 2026 WL 1283513, at *7 (W.D. Wash. May 11, 2026) (a § 1226(a) bond case affirming that Petitioner's post-order procedural posture was likewise insufficient, as a matter of law, to support the IJ's no bond finding without more: "the fact of a removal order is not sufficient by itself to deny bond.")

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CLAIMS FOR RELIEF

COUNT ONE

Violation of the APA, the INA, and Federal Regulations
Agency Action Not in Accordance with Law, In Excess of Statutory Authority, or Abuse of Discretion
(Unlawful Re-Detention)

(Against Respondents Markwayne Mullin (DHS Secretary), David J. Venturella (ICE Acting Director), Julio Hernandez (Seattle ICE Field Office Director))

78. Petitioner restates and realleges all paragraphs as if fully set forth here.

79. The INA provides that Respondents may, as they did here, release an individual who is subject to a removal order under supervision if appropriate or statutorily required. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.4(a).

80. ICE's revocation of Petitioner's § 1231(a)(6) supervised release was unlawful because: 1) the agents failed to follow the requisite procedures; and 2) the agency failed to establish that it revoked Petitioner's OSUP for valid reason.

81. *First,* as to procedure, at the time of arrest, Respondents did not explain to Petitioner the reason for his release revocation, nor provide Petitioner any meaningful opportunity to respond to any stated rationale for revocation or present evidence to contest it in violation of 8 C.F.R § 241.13(i)(3). The notification ICE served on Petitioner *after the fact* did not provide specific factual basis for revocation. Petitioner never had an informal interview after he received the revocation notice. *See Gonzalez Llinas v. Scott,* No. C26-1461-SKV, 2026 WL 1429338, at *3 (W.D. Wash. May 21, 2026) (granting habeas relief after finding ICE violated its own regulations when it did not afford petitioner an informal interview or an opportunity to respond to the reasons for revocation); *Quiroz Lopez v. Bondi*, No. 2:26-CV-00767, 2026 WL 923370, at *4 (W.D. Wash. Apr. 6, 2026) (same).

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82. *Second*, ICE did not revoke Petitioner's release for a valid reason. The I-213 documenting Petitioner's arrest states that he was re-detained because he was present in the United States with a prior removal order. ICE informed Petitioner he had been detained for being in the country without documents. These are not valid reasons to revoke an § 1231(a)(6) supervised release. *See* 8 C.F.R. § 241.13(i) (establishing DHS can only revoke supervised release upon a violation of the conditions of release or if there is a significant likelihood of reasonably foreseeable removal). The revocation notice asserts the imminence of Petitioner's removal, but ICE cites no changed circumstances or any specific or individualized facts to support this contention. Respondents did not—and still have not—explained why Petitioner's removal is more possible than it was at the time of his supervised release. *See Machuca Del Cid*, 2026 WL 1295891, at *4 (ordering habeas relief because ICE violated 8 CFR § 241.13 when they failed to identify "any circumstances that changed regarding Petitioner's removability before his OSUP was revoked").

83. By categorically revoking Petitioner's release and detaining him without making the requisite findings, without considering Petitioner's individualized facts and circumstances, and without giving Petitioner any meaningful opportunity to be heard prior to or after his re-detention, Respondents have violated the INA and the federal regulations. This same conduct likewise constitutes an abuse of discretion that should be held unlawful under the APA. *See* 5 U.S.C. § 706(2)(A); *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (an agency abuses its discretion where it "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a

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difference in view or the product of agency expertise (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983).

COUNT TWO

Violation of the APA – 5 U.S.C. § 706(2)(A) and the INA – 8 U.S.C. § 1231 Not in Accordance with Law, In Excess of Statutory Authority, Abuse of Discretion (Unlawful Indefinite Detention)

(Against all Respondents)

84. Petitioner restates and realleges all paragraphs as if fully set forth here.

85. *First*, as interpreted by the Supreme Court, 8 U.S.C. § 1231(a)(6) authorizes detention beyond the 90-day removal period only for a "period reasonably necessary to bring about the [noncitizen's] removal from the United States." *Zadvydas*, 533 U.S. at 701.

86. Petitioner has been detained far past the removal period and his removal is not significantly likely in the reasonably foreseeable future. Petitioner's removal order became administratively final over two years ago. On information and belief, within that time, including in Petitioner's eight months of detention at NWIPC, Respondents have failed to effectuate Petitioner's removal to Venezuela and have made no actual efforts to remove Petitioner to a specifically identified third country.

87. On information and belief, Petitioner has not engaged in any conduct to trigger an extension of the removal period under 8 U.S.C. § 1231(a)(1)(C).

88. Because it has been more than six months since Petitioner's removal order was reinstated and more than six months since he was detained in October 2025, it is presumed that his removal is no longer reasonably foreseeable and thus no longer authorized by the INA. *See Zadvydas*, 533 U.S. at 699–701.

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89. *Second*, Respondents have provided Petitioner with no meaningful individualized custody determination to justify his detention beyond the 90-day removal period as required under the statute and implementing regulations. *See* 8 U.S.C. § 1231(a)(3), (6); 8 C.F.R. §§ 241.4, 241.13. Following the 90-day removal period defined in 8 U.S.C. § 1231(a), DHS must follow its regulatory procedures to conduct a review of the noncitizen's records and to make an individualized custody determination to either grant release or extend their custody and provide a copy of the decision to the noncitizen. *See* 8 C.F.R. § 241.4(a), (d), (h)(1).

90. As previously stated, Respondents claim to be conducting a custody review, but their procedures have been woefully deficient and no decision has yet been reached or communicated to Petitioner or to counsel.[10]

91. If Respondents conducted a meaningful review that comported with statutory and regulatory requirements, Petitioner would be released from immigration detention.

92. Respondents' failures to follow the statute and implementing regulations – in detaining Petitioner beyond the removal period when his removal is not reasonably foreseeable and without an individualized custody determination – likewise separately

[10] Petitioner's April 21 bond hearing likewise did nothing to cure the constitutional violation of Petitioner's indefinite detention. For one, the primary inquiry in assessing whether post-removal period detention is lawful or not centers around the question of whether there is a significant likelihood of removal in the foreseeable future. *Zadvydas*, 533 U.S. at 699–700. Petitioner's bond proceeding before the immigration judge did not answer that question and instead centered around a separate and distinct inquiry: whether Petitioner presents a flight risk or a danger to the community. *Martinez-Baños v. Asher*, No. 16-1454, 2018 WL 1617706 (W.D. Wash. April 4, 2018) (holding that the government bore the burden to establish by clear and convincing evidence that the noncitizen is either a danger to the community or a flight risk in *Martinez-Baños* bond hearings). Moreover, as noted above, the immigration judge's no-bond finding and the process afforded in the bond proceeding were legally and constitutionally impermissible.

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constitute APA violations. *See* 5 U.S.C. § 706(2)(A) (a court shall set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

COUNT THREE

Violation of Fifth Amendment Right to Substantive Due Process
(Unlawful Indefinite Detention)

(Against all Respondents)

93. Petitioner restates and realleges all paragraphs as if fully set forth here.

94. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

95. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *see also Jimenez v. Bostock*, No. 3:25-CV-00570-MTK, 2025 WL 2430381, at *6–7 (D. Or. Aug. 22, 2025). ("[F]reedom from government custody is fundamental.").

96. Civil immigration detention violates substantive due process if it is not reasonably related to its statutory purpose. *See Zadvydas*, 533 U.S. at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). The purposes of post-order detention under 8 U.S.C. § 1231 are to ensure an individual's presence for imminent removal and, secondarily, to

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prevent danger to the community. *See Zadvydas*, 533 U.S. at 690, 697. "[T]he first justification—preventing flight—is weak or nonexistent where removal seems a remote possibility at best." *Id.* at 679.

97. Petitioner's detention is not reasonably related to the primary statutory purpose of ensuring imminent removal. His prolonged civil detention has now reached eight months and will continue into the indefinite future.

98. On information and belief, Respondents re-detained Petitioner in October 2025 without any individualized facts establishing the imminence of removal. Since his arrest, they have been unable remove him to Venezuela or identify a third country for removal, let alone demonstrate that he will be removed soon.

99. In total, ICE has had nearly two-and-a-half years to effectuate Petitioner's removal, including eight months since Petitioner's re-detention. During that time, Respondents have not fully adjudicated Petitioner's application for protection against deportation to Venezuela nor identified a viable third country of removal. There is no significant likelihood of his removal in the reasonably foreseeable future. *See Chicas v. Bondi,* No. C26-451-RSM, 2026 WL 775635, at *4 (W.D. Wash. Mar. 19, 2026) (granting habeas relief due to no significant likelihood of removal in the reasonably foreseeable future when Petitioner's case was pending with the BIA and Respondents had not meaningfully attempted to remove Petitioner to a third country); *Gonzalez-Llinas*, No. C26-1461-SKV, 2026 WL 1429338 at *4 (W.D. Wash. May 21, 2026) (removal was not reasonably foreseeable when Petitioner was on appeal to the BIA and Respondents did not demonstrate they had requested a travel document or otherwise attempted to effectuate Petitioner's removal).

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100. Moreover, Petitioner is neither a danger to the community nor a flight risk. Petitioner has no criminal history. Petitioner has strong ties to his community and was regularly reporting for in-person ICE check-ins while living freely in Portland. Further, Petitioner's U.S. citizen infant, his fixed address, his extensive community ties, and his interest in obtaining immigration relief by seeing his pending merits appeal through to its final adjudication all root him the Portland, Oregon area and negate any suggestion that he constitutes a flight risk.

101. Because Petitioner's detention bears no rational relation to the statutory purposes of immigration detention under 8 U.S.C. § 1231, his detention contravenes the Substantive Due Process protections of the Fifth Amendment.

COUNT FOUR

Violation of Fifth Amendment Right to Procedural Due Process
(Unlawful Re-detention and Indefinite Detention)

(Against all Respondents)

102. Petitioner restates and realleges all paragraphs as if fully set forth here.

103. Basic due process doctrine provides that an individual must be afforded requisite process, including notice and an opportunity to be heard, before being deprived of a liberty interest. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). Prolonged civil detention violates procedural due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Zadvydas*, 533 U.S. at 690–91; *Foucha*, 504 U.S. at 81–83; *Kansas v. Hendricks*, 521 U.S. at 346, 364–69 (1997); *United States v. Salerno*, 481 U.S. 739, 750–52 (1987).

104. While the government has discretion to detain individuals under 8 U.S.C. § 1231 and to revoke custody decisions pursuant to the same authority, this discretion is not

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"unlimited." *See Zadvydas*, 533 U.S. at 698. Additionally, when agencies fail to adhere to their own policies, the result can be a due process violation. *See Sameena, Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.") (internal quotations omitted).

105. Due process requires that government action be rational and non-arbitrary. *See United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). While the government may detain individuals under 8 U.S.C. § 1231(a) and to revoke custody decisions under 8 C.F.R. § 241.4(l) and § 241.13(i), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

106. Here, Petitioner has been deprived of his liberty without the process due under Respondents' own regulations, resulting in the violation of his due process rights.

107. *First*, Respondents have violated Petitioner's right to procedural due process by failing to follow their own regulations, as laid out in 8 C.F.R. § 241.13(i)(3), with regard to the revocation of Petitioner's supervised release. Petitioner was provided no notice, let alone an opportunity to be heard, prior to being detained. He also was not provided with the basis for his release revocation at the time of his detention. Rather, he was given a brief, harried post-hoc justification for his detention, one that does not match that which is asserted in Petitioner's I-213. He was not given written notice as required until days later. Because no individualized determination for revocation has been made and because Petitioner has not been afforded an opportunity to respond to the reasons for revocation, Respondents' revocation of Petitioner's release violates his right to procedural due process. *See Orellana*

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v. Hernandez, No. 2:26-CV-01167-LK, 2026 WL 1283520, at *3–5 (W.D. Wash. May 11, 2026) (Petitioner's arbitrary re-detention after a year of being released on an Order of Supervision, with no intervening violation of the conditions of release, violated procedural due process); *Navarro-Maury v. Hermosillo*, No. 2:26-CV-00333-TMC, 2026 WL 1413166, at *4 (W.D. Wash. May 20, 2026) (ICE violated Petitioner's right to procedural due process when it revoked Petitioner's order of supervision five years after the alleged violation and without following its own procedures); *Diego Francisco v. Noem,* No. 2:26-cv-00025-GJL, 2026 WL 295211, at *3 (W.D. Wash Feb. 4, 2026) ("courts in this District have found the Due Process Clause requires a pre-deprivation hearing before revocation of an OSUP." [citations omitted]); *Saley*, 2026 WL 914810 at *4 ("Notice [of revocation] on the same day is not notice…This Court and other courts in this District have found that due process requires pre-deprivation notice and a hearing before revoking a noncitizen's order of supervision and re-detaining them.")

108. *Second*, Petitioner has been deprived of his liberty without the process due at every stage of his now-indefinite detention. Respondents have continued to detain Petitioner without affording him the legally required processes. Petitioner was not afforded a custody review process after 90 days, and his six-month custody review is procedurally inadequate. This process fails to provide Petitioner with a meaningful opportunity to be heard in order to seek release.

109. Petitioner's arrest and continued detention thus violate procedural due process.

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PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court grant the following:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
3. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the APA, the INA, and the implementing regulations;
4. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody without any conditions or, alternatively, under the same conditions as provided when he was last released into the country;
5. Order Respondents to immediately return Petitioner's property to him upon his release;
6. Order that before any future re-detention of Petitioner, Respondents must provide Petitioner with a pre-deprivation hearing before a neutral arbitrator at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner is a particular danger to the community or that custody is appropriate to enforce an existing removal order to a named third country;
7. In the alternative, order that before any future re-detention, Respondents must provide written notice to the Petitioner of the reasons for his re-detention at least two weeks in advance of any intended re-detention and follow the formal processes required under 8 C.F.R. § 241.13;

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8. In the alternative, issue an order compelling Respondents to provide Petitioner a second, constitutionally adequate bond hearing at which the Government bears the burden of justifying his detention by clear and convincing evidence, within three days of this Court's Order;
9. In the alternative, conduct a hearing before this Court at which the Government bears the burden of justifying his detention by clear and convincing evidence;
10. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
11. Grant any further relief this Court deems just and proper.

Dated: June 18, 2026.

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**Motion for Pro Hac Vice Forthcoming*