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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

E-A-T-B, an adult,

Case No. 3:25-cv-01054-AB

Petitioner,

AMENDED PETITION FOR WRIT OF
HABEAS CORPUS

v.

Request For Expedited Hearing

DREW BOSTOCK, Seattle Field Office
Director, Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); TODD LYONS, Acting
Director of Immigration Customs
Enforcement ("ICE"); U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; KRISTI NOEM,
Secretary of the Department of Homeland
Security ("DHS"); U.S. DEPARTMENT
OF HOMELAND SECURITY; and
PAMELA BONDI, Attorney General of
the United States,

Respondents.

Introduction

1. E-A-T-B¹ is seeking asylum in this country. He was released on his own recognizance from immigration authorities under the Alternatives to Detention program. He has lived in Vancouver, Washington with his family and has been compliant with his conditions of release. Today he appeared in immigration court in Portland, Oregon, where he sought to consolidate his asylum case with that of his mother, because their asylum claims rested on the same facts. After court he was followed by ICE agents and told if he did not leave his car, ICE agents would break the window to remove him. His immigration attorney was present and despite showing agents proof that E-A-T-B was in compliance with his release conditions under the Alternatives to Detention program, E-A-T-B was arrested. ICE agents informed his attorney that his arrest because of enforcement priorities. His immigration attorney's efforts to see E-A-T-B at the ICE facility in Portland were refused.
2. His sudden detention, despite his compliance with the conditions of his release, and without process to show he was in compliance, violates the Due Process Clause of the Fifth Amendment, immigration statutes, and applicable regulations.
3. He seeks a writ of habeas corpus to challenge his unlawful detention. He requests that the Court enter an immediate order that he not be moved from the District of Oregon.
4. The amended petition provides additional information and corrections based on newly learned information. The information pled in this habeas petition is on information and belief and undersigned counsel will file a further amended petition upon learning additional information.

¹ Petitioner is proceeding through his initials.

Jurisdiction

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. Seq. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). 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

6. Venue is proper because Petitioner was arrested within this judicial district, and his last known location of detention is in this district.

Requirements of 28 U.S.C. §§ 2241, 2243

7. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) 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 return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

8. Habeas corpus is a “speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination.” *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737-738 (9th Cir. 1954). The statute, 28 U.S.C. § 2243, provides for an accelerated process so that the petitioner may have a ‘swift, flexible, and summary determination of his claim.’ *See Preiser v. Rodriguez*, 411 U.S. 475, 495 (1973). The timelines in the statute call for the Court to “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. The writ or the order then “shall be

returned within three days.” Only on a showing of good cause is additional time permitted, “not exceeding twenty days.” *Id.* A hearing is to follow five days after return of the order. Finally, the statute permits the court to summarily hear and determine the facts and dispose of the matter as law and justice require. *See also Browder v. Director*, 434 U.S. 257, 266 n.10 (1978).

9. Petitioner is in the physical custody of the Respondents and habeas is an appropriate remedy.

Parties

10. Petitioner is a citizen of Colombia and a resident of the State of Washington. He is seeking asylum in this country and was arrested in Portland, Oregon this morning after appearing in immigration court. He has no prior criminal history. Chief Judge McShane appointed the Federal Public Defender Office for the purpose of this habeas proceeding.

11. Respondent Drew Bostock is the Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non citizens. The Seattle Field Office’s area of responsibility includes Alaska, Oregon, and Washington. Respondent Bostock is a legal custodian of Petitioner.

12. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Drew Bostock and ICE in general. Respondent Lyons is a legal custodian of Petitioner. 16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of

the United States. 17. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States. 18. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. 19. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents. 20. This action is commenced against all Respondents in their official capacities.

Legal Framework

13. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

14. The Immigration and Nationality Act (INA) establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a). 24. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C. § 1229a. 25. 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, 4253 (1979).

15. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). 27. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can

provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances. 28. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual's release when the facts and circumstances warrant it.

16. Revocation and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

Factual Background

17. Petitioner, E-A-T-B, a resident of Vancouver, Washington, and was arrested today in Portland Oregon. He is a citizen of Colombia. He has no criminal history. He has never been removed from the country before.

18. He entered the United States in Eagle Pass, Texas and has resided in Vancouver, Washington since 2023. Petitioner has applied for asylum and has an ongoing case in immigration court in Portland, Oregon.

19. On September 8, 2023, Petitioner was sent a call-in letter from the Department of Homeland Security (DHS), ordering him to appear on November 10, 2023 at 07:00 am for enrollment in the Alternatives to Detention (ATD) program. Petitioner was released on recognizance and has since reported on November 01, 2023 and February 07, 2024.

20. In his application for asylum, Petitioner explained that in Colombia, he, along with his family and friends, were "threatened by the FARC, a terrorist group from Colombia." Petitioner stated that in August of 2023, this group engaged in a terrorist attack in which a canine was

killed, in order to generate fear in the community so that their requests would be met. Petitioner indicated that if he returned to Colombia and did not comply with the group's requests, they would threaten him with death. Petitioner also stated that his father had been killed by the Paramilitary. Petitioner's mother and step-father both received threats from FARC in Colombia.

21. Petitioner's mother entered the United States with parole in December of 2022.

Petitioner's mother and siblings requested asylum in December 2023. Petitioner currently has an immigration case pending at the immigration court in Portland, Oregon. Charging documents were filed in this case on September 7, 2023.

22. Petitioner has complied with conditions of his release, including Intensive Supervision Appearance Program (ISAP) check-ins.

23. On June 5, 2025, petitioner appeared in immigration court pro se for a Master Calendar Hearing. On that date, the Department of Homeland Security (DHS) moved to dismiss on the basis of changed conditions.

24. On June 12, 2025, Petitioner's attorney, Ms. Yessenia Martinez, entered her appearance in his immigration case.

25. Petitioner appeared in immigration court on June 18, 2025. During the court proceedings, DHS withdrew the motion to dismiss, citing changed conditions. Petitioner's attorney requested a motion for consolidation of Petitioner's case with his mother's case. DHS requested time to respond, and the Immigration judge permitted them to file a response by June 30, 2025.

26. On June 18, 2025, Petitioner and his mother left immigration court after the conclusion of his proceedings for the day. As Ms. Martinez was leaving the courthouse, she received a call from Petitioner's mother, who informed her that Petitioner and his mother were being followed by masked men. Ms. Martinez told Petitioner's mother to remain on the phone with her. While

Ms. Martinez was on the phone with them, Petitioner and his mother were pulled over by Immigration and Customs Enforcement (ICE) agents.

27. Ms. Martinez was able to locate Petitioner and his mother. Ms. Martinez got out of her car, approached the agents, and informed them that she was Petitioner's attorney.

28. Ms. Martinez recognized the three agents as ICE agents because she has been to the Portland ICE detention facility three times in the past two weeks and recognized the agents from that facility.

29. One of the ICE agents informed Ms. Martinez that Petitioner had missed his ISAP check-ins. Ms. Martinez had Petitioner give his phone to her, and she promptly showed the agent that Petitioner had not missed any of the check-ins. Further, Ms. Martinez informed the agent that she had just been in court with Petitioner, and if there had been a missed check-in and a lack of compliance with release conditions, DHS's attorney would have brought that information to the attention of the court.

30. The agent next told Ms. Martinez that Petitioner was "part of our enforcement priorities," and claimed to be in danger because bystanders were recording the events. The agent then threatened to break Petitioner's car window to remove him from the car, as well as charge Petitioner with resisting arrest.

31. Petitioner is a native Spanish speaker and is not fluent in English. As Ms. Martinez was translating for Petitioner in order to inform him of what was happening, the agent reached into Petitioner's car and unlocked it. Petitioner stepped out of the vehicle and was placed in handcuffs.

32. The agents told Ms. Martinez that they were taking Petitioner to the ICE facility in Macadam, and that Ms. Martinez would be able to speak with him there. The agents took Petitioner with them and left the scene.

33. Ms. Martinez went to the ICE facility in Macadam, which was closed. Through the metal fence, Ms. Martinez spoke to a Customs and Border Patrol (CBP) agent and informed the agent that her client had been detained and she needed to see him. That agent went to inquire about whether Ms. Martinez could see her client.

34. Another CBP agent then approached Ms. Martinez and informed her that individuals were not being brought to the Macadam facility because it was closed. This information directly contradicts what Ms. Martinez was told by the ICE agents who detained Petitioner, and Ms. Martinez informed the CBP officer about what the ICE agent had said. The CBP agent again stated that no individuals were being brought to the Portland facility, and that Ms. Martinez's client would be in Tacoma.

35. The initial CBP agent then returned, along with another security guard, and also told Ms. Martinez that the facility was closed due to the protests in the area, and that the facility would remain closed "for however long the protestors allowed it to remain closed."

36. Ms. Martinez informed the agents that any protests in the area were independent of her right to see her client, and the agent again told her that the facility was closed and she could speak with her client in Tacoma.

37. Ms. Martinez confirmed with the agent that she would not be allowed to see Petitioner that day, and the agent confirmed that that was the case.

CLAIMS FOR RELIEF

Claim One: Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Abuse of Discretion, Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

38. Petitioner restates and realleges all paragraphs as if fully set forth herein.

39. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

40. An action is an abuse of discretion if the agency “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 difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

41. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

42. By revoking Mr. EATB’s release without consideration of his individualized facts and circumstances, Respondents have violated the APA.

43. Respondents have abused their discretion in detaining petitioner, because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support his revocation of his release from custody. Indeed, evidence shows that he is in compliance with his release conditions.

Claim Two: Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

44. Petitioner restates and realleges all paragraphs as if fully set forth herein.

45. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, Case 3:25-cv-00570-AR Document 1 Filed 04/08/25 Page 11 of 14 PETITION FOR WRIT OF HABEAS CORPUS Page 11 authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D). 56. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”

46. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).

47. Revocation of Petitioner’s release due to enforcement priorities when he is in full compliance of his release conditions is unlawful and exceeds statutory authority.

Claim Three: Violation of Fifth Amendment Right to Due Process, Procedural Due Process

48. Petitioner restates and realleges all paragraphs as if fully set forth herein.

49. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

50. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698. 64. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents’ revocation of Petitioner’s release violates his right to procedural due process.

Prayer for Relief

51. Wherefore, Petitioner respectfully requests on the basis of the foregoing and the attached exhibits that this Court grant the following:

- a. Assume jurisdiction over this matter;
- b. Issue an order prohibiting the Respondents from transferring Petitioner from the district without the court’s approval;²
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

² The Court has recently issued similar orders: *NEMB v. Bostock*, 3:25-cv-989-SI, ECF 4 at 4 (ordering that “[u]nless otherwise ordered by the Court, Respondents shall not move Petitioner outside the District of Oregon without first providing advance notice of the intended move. Such notice must be filed in writing and docketed in this proceeding. It must also state the reason that Respondents believe that such a move is necessary . . .”); *OJM v. Bostock*, 3:25-CV-944-AB, ECF 5 at 3 (same); *YZLH v. Bostock*, 3:25-cv-965-SI, ECF 4 at 4 (same).

- d. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- e. Declare that Petitioner's revocation of parole was made in violation of statute and regulation;
- f. Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody;
- g. Grant any further relief this Court deems just and proper.

Dated: June 18, 2025.

/s/ Fidel Cassino-DuCloux
Fidel Cassino-DuCloux

/s/ Julie Vandiver
Julie Vandiver

/s/ Jessica Snyder
Jessica Snyder

Attorneys for Petitioner