

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

S-A-M-J

(b) County of Residence of First Listed Plaintiff Linn
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kurt Hermansen, 859 Willamette Street, Suite 200,
Eugene, OR 97401

DEFENDANTS

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.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	☐ 310 Airplane	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 315 Airplane Product Liability	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Miller Act	☐ 320 Assault, Libel & Slander		INTELLECTUAL PROPERTY RIGHTS	☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 330 Federal Employers' Liability		☐ 820 Copyrights	☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 340 Marine		☐ 830 Patent	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 345 Marine Product Liability		☐ 835 Patent - Abbreviated New Drug Application	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 350 Motor Vehicle	LABOR	☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 355 Motor Vehicle Product Liability	☐ 710 Fair Labor Standards Act	☐ 880 Defend Trade Secrets Act of 2016	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 360 Other Personal Injury	☐ 720 Labor/Management Relations	SOCIAL SECURITY	☐ 480 Consumer Credit (15 USC 1681 or 1692)
☐ 190 Other Contract	☐ 362 Personal Injury - Medical Malpractice	☐ 740 Railway Labor Act	☐ 861 HIA (1395ff)	☐ 485 Telephone Consumer Protection Act
☐ 195 Contract Product Liability		☐ 751 Family and Medical Leave Act	☐ 862 Black Lung (923)	☐ 490 Cable/Sat TV
☐ 196 Franchise		☐ 790 Other Labor Litigation	☐ 863 DIWC/DIWW (405(g))	☐ 500 Securities/Commodities/Exchange
		☐ 791 Employee Retirement Income Security Act	☐ 864 SSID Title XVI	☐ 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	IMMIGRATION	☐ 865 RSI (405(g))	☐ 891 Agricultural Acts
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	☐ 462 Naturalization Application	FEDERAL TAX SUITS	☐ 893 Environmental Matters
☐ 220 Foreclosure	☐ 441 Voting	☐ 465 Other Immigration Actions	☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 895 Freedom of Information Act
☐ 230 Rent Lease & Ejectment	☐ 442 Employment		☐ 871 IRS—Third Party 26 USC 7609	☐ 896 Arbitration
☐ 240 Torts to Land	☐ 443 Housing/Accommodations			☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment			☐ 950 Constitutionality of State Statutes
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other			
	☐ 448 Education			
	PRISONER PETITIONS			
	☒ 463 Alien Detainee			
	☐ 510 Motions to Vacate Sentence			
	☐ 530 General			
	☐ 535 Death Penalty			
	Other:			
	☐ 540 Mandamus & Other			
	☐ 550 Civil Rights			
	☐ 555 Prison Condition			
	☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC §§ 2241, 2243

Brief description of cause:

Writ of Habeas Corpus, Petitioner was unlawfully detained

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/12/2025

SIGNATURE OF ATTORNEY OF RECORD

Kurt Hermansen

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

S-M-J, an adult

Petitioner,

Case No.:

Agency No. A



v.

DREW BOSTOCK, et al,
Respondents include: (1) Drew
Bostock, Seattle Field Office
Director, Immigration and Customs
Enforcement and Removal
Operations ("ICE/ERO"); (2) Todd
Lyons, Acting Director of
Immigration Customs Enforcement
("ICE"); (3) Kristi Noem Secretary of
the Department of Homeland
Security ("DHS"); (4) Pamela Bondi,
Attorney General of the United
States; (5) U.S. Immigration and
Customs Enforcement; and 6) U.S.
Department of Homeland Security.
Respondents.

PETITION FOR WRIT OF
HABEAS CORPUS

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. S-M-J (“Petitioner”) is a 19-year-old male Guatemala who left Guatemala with his father because of fear that he and his family would suffer serious harm, including severe violence and death.

2. Petitioner is part of the Kanjobal ethnic group and speaks Kanjobal as his first language.

3. Petitioner has a serious disability. He cannot walk, and his limbs have not formed properly. This disability is clearly visible and has impacted Petitioner severely.

4. Upon entering the United States in March, 2019, Petitioner was detained by immigration authorities at the border. In March 2019, over six years ago, Petitioner was released from immigration on Orders of Supervised Release (“OSUP”). On information and belief, Petitioner did not receive a reasonable fear interview while detained at the border.

5. Petitioner’s mother applied for asylum in 2021 while she was in removal proceedings by submitting a form I-589 to EOIR, the immigration court. Petitioner was included as a derivative child on that application. In April, 2024, Petitioner’s wife’s removal proceedings were dismissed, and she refiled her asylum application with USCIS in December 2024. Petitioner was again included as a derivative child on that application.

6. On August 12, 2025, Petitioners were taken in to custody by ICDE officers during a routine check-in at the Eugene ICE office.

7. Now, Respondents have detained Petitioner at the Eugene ICE office without following the processes mandated in the Immigration and Nationality Act (INA), the Administrative Procedure Act (APA), and other federal regulations, and in violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

8. Accordingly, to vindicate Petitioners' rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioners ask this Court to find that Respondents' attempts to detain, transfer, and deport them are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing their transfer out of this district.

JURISDICTION

9. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et. seq.*

10. 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).

11. 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.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

12. Venue is proper because Petitioners are in Respondents' custody in Eugene, Oregon. Venue is further proper because a substantial part of the events or

omissions giving rise to Petitioners' claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

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

13. 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.*

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Its "root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release." *Fay v. Noia*, 372 U.S. 391, 402 (1963). "It must never be forgotten that the writ of habeas corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired." *Bowen v. Johnston*, 306 U.S. 19, 26 (1939).

15. Petitioners are "in custody" for the purpose of § 2241 because he is arrested and detained by Respondents.

PARTIES

16. Petitioner is a 19-year-old citizen Guatemala. He is a resident of Lebanon Oregon, and is present within the state of Oregon as of the time of the filing of this petition.¹

17. 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.

18. 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.

19. 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

¹ Petitioner seeks leave to proceed anonymously because their public identification creates a retaliatory physical harm risk because their status as an asylum seeker in the United States and the nature of their claim is sensitive and highly personal. *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). The Ninth Circuit has identified several different situations in which parties have been permitted to proceed under a fictitious name, including “(1) when identification creates a risk of retaliatory physical or mental harm, . . . ; (2) when anonymity is necessary ‘to preserve privacy in a matter of sensitive and highly personal nature,’ . . . ; and (3) when the anonymous party is ‘compelled to admit [his or her] intention to engage in illegal conduct, thereby risking criminal prosecution.’” *Id.* (collecting cases; internal citations omitted). The Petitioner would provide their identity to the Respondents and the Court under seal.

legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

20. 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.

21. 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.

22. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

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

LEGAL FRAMEWORK

24. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

25. Immigration detention is a form of civil confinement. “[C]ivil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 425 (1979).

26. Individuals with prior removal orders can be detained during the removal period but may be released from detention and confinement. 8 U.S.C. § 1231.

27. Individuals detained under 8 U.S.C. § 1231(a)(3) may be released, subject to terms of supervision.

28. Individuals with a prior order of removal who have a reasonable fear of persecution or torture upon return to their country of origin, are able to apply for Withholding of Removal. 8 C.F.R. § 208.31..

29. Revocation and return to custody is authorized upon following certain processes and an exercise of discretion by certain authorized officials making individualized findings. 8 C.F.R. § 241.4(l).

30. A noncitizen must promptly be notified of the reasons for revocation of release, be afforded an initial informal interview to respond to the reasons for revocation, and the revoking official can only exercise his or her discretion after a particularized finding is made. 8 C.F.R. § 241.4(l).

FACTUAL BACKGROUND

31. Petitioner is a citizen of Guatemala. He was born and lived in Department of Huehuetenango with his family before coming to the United States.

32. Petitioner and his family has suffered severe mistreatment and threats while in Guatemala. Petitioner's family was threatened and harassed by criminals after they reported those criminals to the police.

33. Additionally, Petitioner has been mistreated because of his disability.

34. Petitioner and his family have also been mistreated because they belong to a minority ethnic group, the Kanjobal ethnic group.

35. On information and belief, on or about May 2019, Petitioner came to the United States seeking asylum. Respondents detained and released them into

the United States, based on the individualized facts in their case. Petitioner had a prior removal order, which Respondents knew about. Notwithstanding that removal order, Respondents released Petitioner with an OSUP.

36. On information and belief, Petitioners regularly complied with and appeared for ICE check-ins and all Respondents' requirements. In fact, the frequency of Petitioners' ICE check-ins had decreased from once a month to once every six months.

37. On August 12, 2025, Petitioners dutifully attended their ICE check-in. Respondents detained and arrested Petitioners.

38. On information and belief, Petitioner has no criminal history.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act—5 U.S.C. § 706(2)(A), the Immigration and Nationality Act—8 U.S.C. § 1231, and Federal Regulations Not in Accordance with Law and in Excess of Statutory Authority, Abuse of Discretion

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

40. Under the APA, a court shall "hold unlawful and set aside agency action" that is arbitrary, and/or an abuse of discretion, among other things. 5 U.S.C. § 706(2)(A).

41. An action is arbitrary or capricious and thus 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)).

42. The INA provides that Respondents may, as they did in Petitioner’s case, release an individual, who is subject to a removal order, to supervision if appropriate or statutorily required. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.4(a). Any person released under such circumstances “shall be released pursuant to an order of supervision.” 8 C.F.R. § 241.5(a).

43. Specified ICE officials may revoke supervised release “in the exercise of discretion,” but this requires formal processes and findings. 8 C.F.R. § 241.4(l)(1)-(2).

44. The language of 8 C.F.R. § 241.4(l) specifically limits the power of anyone who is not the Executive Associate Director to revoke release. For example, it provides that “[a] district director may also revoke release of a [noncitizen] when”—and only when—“in the district director’s opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director].” Thus, before a district director can revoke release, the district director must make certain findings.

45. A noncitizen’s release may be revoked “in the exercise of discretion” when, in the opinion of the revoking official, “[t]he purposes of release have been served,” the noncitizen “violates any condition of release;” revocation “is appropriate to enforce a removal order or to commence removal proceedings against [the

noncitizen],” or “[t]he conduct of the [noncitizen], or any other circumstance, indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2).

46. The language of 8 C.F.R. § 241.4(l)(1) also requires that upon revocation of release, a noncitizen “will be notified of the reasons for revocation” of release and “be afforded an initial informal interview promptly after his or her return to [] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification.”

47. Regardless of Petitioners’ removal order, by arbitrarily terminating Petitioner’s supervised release and detaining her without following proper procedures, Respondents have violated the INA and federal regulations. *See Ceesay v. Kurzdorfer*, No. 25-CV-267-LJV, 2025 WL 1284720, at *17 (W.D.N.Y. May 2, 2025) (granting habeas relief after finding ICE violated 8 C.F.R. § 241.4(l) when it did not afford petitioner an informal interview or an opportunity to respond to the reasons for revocation); *Torres-Jurado v. Biden*, No. 19 CIV. 3595 (AT), 2023 WL 7130898, at *2 (S.D.N.Y. Oct. 29, 2023) (noting that notwithstanding ICE’s discretion to execute a removal order, ICE “cannot remove” a noncitizen—even one subject to a final removal order—“in any manner [it] please[s]”); *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993) (“[W]hen a regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute, and [the government] fails to adhere to it, the challenged deportation proceeding is invalid and a remand to the agency is required”—even in the absence of a showing of prejudice.).

48. By categorically revoking Petitioner's release and detaining her without making the requisite findings and without considering Petitioner's individualized facts and circumstances, Respondents have violated the APA.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

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

50. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

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

52. While the government has discretion to detain individuals under 8 U.S.C. § 1231 and to revoke custody decisions under 8 C.F.R. § 241.4(l), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 697-98.

53. Respondents have chosen to revoke Petitioner's release in an arbitrary manner and without the formal processes and findings required by statute and regulation, in violation of due process. 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 her right to procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that 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 re-detention without an individualized determination violates the APA;
- (4) Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (5) Declare that Respondents' application of the January 2025 Designation to Petitioner is illegal;
- (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (7) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- (8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(9) Grant any further relief this Court deems just and proper.

Dated: August 12, 2025.

s/ Robert Easton

Robert Easton, OR SBN 203697

s/ Kurt Hermansen

Kurt David Hermansen, CA SBN 166349

Attorneys for Petitioner