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**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
Portland Division**

L-A-R-A-, an adult,

Petitioner,

v.

LAURA HERMOSILLO,<sup>1</sup> Acting 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.

Case No. 3:25-cv-01994-AB

**PETITIONER'S TRAVERSE IN  
SUPPORT OF PETITION  
FOR HABEAS CORPUS**

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<sup>1</sup> Respondent Camilla Wamsley was initially listed as the lead Respondent, as she then held the position of Seattle Field Office Director of the Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"). Laura Hermosillo has been substituted as the current acting official in this position. *See* Fed. R. Civ. P. 25(d).

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## INTRODUCTION

Petitioner L-A-R-A- seeks habeas relief after Respondents unlawfully detained him in violation of his rights under the Fourth and Fifth Amendment of the U.S. Constitution, the Immigration and Nationality Act, and the Administrative Procedures Act. Though Respondents released him after this Court issued an order preserving its jurisdiction and requiring advance notice before Respondents moved Petitioner out of the District of Oregon, *see* ECF 6, such voluntary cessation of their unlawful conduct does not moot the petition or the need for permanent relief from this Court. Respondents defend the arrest only by asserting that Petitioner's detention was mandatory under § 1225(b)(2); as discussed in depth *infra*, this broad interpretation of the detention statute is indefensible and has been found to be incorrect by dozens of courts throughout the country, including this one. Because Defendants presented no lawful basis to justify Petitioner's detention, and have not repudiated their unlawful conduct, the Petition should be granted.

## FACTUAL BACKGROUND

Petitioner L-A-R-A- is a 43-year-old man and longtime resident of the Beaverton, Oregon community, where he lives with his U.S. citizen partner of fifteen years. On the morning of October 28, 2025, L-A-R-A- was in his vehicle and on his way to work when he stopped at a Mexican grocery store to buy bread. As he was exiting the grocery store parking lot in his vehicle, and obeying all traffic laws, immigration agents pulled him over and arrested him.

Counsel filed a habeas corpus petition on his behalf. ECF 1. A few hours later, at 2:48 PM, the Court issued an order which, among other things, preserved its jurisdiction and restrained Respondents from transferring L-A-R-A- out of the District of Oregon without advance notice to the Court. *See* ECF 6. As a result of this order and due to a lack of overnight bed space in Oregon, Respondents released L-A-R-A- under an Order of Release on

Recognizance (“OREC”). *See* Declaration of Deportation Officer Matthew Randall (“Randall Decl.”), ECF 19, ¶ 6. Respondents also served L-A-R-A a Notice to Appear (“NTA”) and later filed the NTA with the Portland Immigration Court, initiating removal proceedings against him. *See id.*

Days later, Respondents filed a motion to dismiss the NTA against L-A-R-A-, and on November 18, 2018, the motion was granted. *Id.* ¶ 7. Following the dismissal of L-A-R-A-’s removal proceedings, Respondents canceled L-A-R-A-’s OREC. *Id.*

### ARGUMENT

In filing his *habeas corpus* petition, L-A-R-A- sought freedom from unlawful executive detention, requesting (1) a return to the status quo of his freedom from detention, and (2) a remedy ensuring that Respondents would not engage in the challenged unlawful executive activity against him in the future. Following the filing of this case and the Court’s order preserving jurisdiction, *see* ECF 6, Respondents released L-A-R-A- from custody due to the lack of overnight detention space in Oregon. L-A-R-A-’s release, which occurred only because of the filing of this litigation, does not moot his core habeas claims. Since L-A-R-A-’s arrest and detention, Respondents have neither repudiated their past unlawful actions nor given L-A-R-A- sufficient certainty that his liberty will be protected absent an order from this Court.

#### **I. Respondents have not mooted L-A-R-A-’s petition for *habeas corpus*.**

In filing this petition, L-A-R-A- challenged the validity of his executive detention itself and brought a “core” habeas claim for which relief is clearly available. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005 (2025); *Nance v. Ward*, 597 U.S. 159, 167 (2022) (confirming that a petitioner “must proceed in habeas when the relief he seeks would necessarily imply the invalidity of his conviction or sentence”) (internal quotations omitted). Notwithstanding L-A-R-A-’s release following this Court’s October 28 Order, this Court still has authority to grant the relief that L-A-

R-A- seeks: declaratory and injunctive relief that would ensure his continued freedom from unlawful detention and protection from a midnight, no-notice transfer outside the district of Oregon away from his counsel and community. *See* 28 U.S.C. § 2241 et. seq.; 28 U.S.C. § 2201 et. seq., 28 U.S.C. § 1651(a); *cf. Robbins v. Christianson*, 904 F.2d 492, 494 (9th Cir.1990) (“If it appears that we are without power to grant the relief requested, then this case is moot.” (internal citations omitted.)).

Indeed, the Portland and Eugene divisions of this Court have ordered precisely such relief in similar cases. In *Jimenez v. Bostock*, Respondents detained the Petitioner without individualized consideration and in violation of his rights. *Jimenez v. Bostock*, 2025 WL 2430381, at \*7 (D. Or. Aug. 22, 2025). As in this case, Petitioner filed a petition for a writ of habeas corpus and thereafter Respondents released Petitioner. In *Jimenez*, the court subsequently issued the very relief sought here—a finding that the revocation of Petitioner’s release from custody was unlawful, protection from future no-notice transfer, and an order not to detain Petitioner without an individualized determination. *Jimenez*, 2025 WL 2430381, at \*7. Similarly, in *N-E-M-B- v. Bostock* and *J-C-R-M- v. Bostock*, Respondents detained Petitioners in violation of their rights. Respondents subsequently released Petitioners following their filing of habeas petitions and then argued that their cases were moot. In both cases, the court concluded that Respondents had not mooted the petitioners’ cases, even where a declaration limiting future detention existed, because “Respondents’ conduct does not moot Petitioner’s claim under the voluntary cessation doctrine.” *N-E-M-B- v. Bostock*, No. 3:25-cv-00989-SI, at \*10 (D. Or. Dec. 9, 2025); *J-C-R-M- v. Bostock*, No. 3:25-cv-990-SI, at \*12 (D. Or. Dec. 9, 2025). The Court then ordered that Respondents could not seek to again detain petitioners, among other conditions, without individualized consideration and 30 days’ notice before transfer out of the district. *N-E-*

*M-B- v. Bostock*, No. 3:25-cv-00989-SI, at \*17; *J-C-R-M- v. Bostock*, No. 3:25-cv-990-SI, at \*19.

Here, the Court has the authority to grant the same meaningful relief granted in *Jimenez*, *N-E-M-B-*, and *J-C-R-M-*, and Respondents' arguments to the contrary are wrong. Absent intervention from this Court, there is no assurance that L-A-R-A- will not be re-detained in an unlawful warrantless arrest and again unlawfully subjected to an inapplicable mandatory detention provision before being rapidly transferred out of the state. Indeed, Respondents have made no assertion here that they will not re-detain L-A-R-A- in the same unlawful manner absent protection by this court. *See* Declaration of Matthew Randall, ECF 19.

"[A]s long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot." *Ellis v. Railway Clerks*, 466 U.S. 435, 442 (1984).

Here, Petitioner maintains an interest in his continued liberty. Respondents conducted an unlawful warrantless arrest and then asserted further custody pursuant to 8 U.S.C. § 1225(b), in violation of the Immigration and Nationality Act (INA). Respondents may not "automatically" moot L-A-R-A-'s case by releasing him after he sued. *Federal Bureau of Investigations v. Fikre*, 601 U.S. 234, 241 (2024); *E-M- v. Bostock, et al.*, Case No. 3:25-cv-1083-SI, ECF 28 at 7 (D.Or. Aug. 12, 2025) at 6 ("[S]imply voluntarily releasing Petitioner after he filed his Petition fails to moot his claims.")<sup>2</sup> Instead, where Respondents voluntarily cease allegedly unlawful conduct,

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<sup>2</sup> Respondents are incorrect that it is "unclear whether the doctrine of voluntary cessation applies to habeas cases." ECF 16 at 5. While the Ninth Circuit declined to answer this question in 1991 in *Picrin-Person v. Rison*, 930 F.2d 773, 776 (9th Cir. 1991), the Ninth Circuit has "since applied the doctrine to an immigration habeas case," *see E-M- v. Bostock, et al.*, Case No. 3:25-cv-1083-SI, ECF 28 at 7 (D.Or. Aug. 12, 2025) (applying the voluntary cessation doctrine in a habeas case) (citing *Diouf v. Napolitano*, 634 F.3d 1081, 1084 n.43 (9th Cir. 2012) *abrogated in part on other grounds* by *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (same)). So too has the Supreme Court. *See A. A. R. P. v. Trump*, 605 U.S. ----, 145 S. Ct. 1364, 1369-70 (2025) (applying the

they bear a “formidable burden” of proving mootness. *Id.*; *Fikre*, 601 U.S. at 243 (“In all cases, it is the defendant’s ‘burden to establish’ that it cannot reasonably be expected to resume its challenged conduct[.]”); *United States v. W. T. Grant Co.*, 345 U.S. 629, 633 (1953) (noting that “voluntary cessation of allegedly illegal conduct does not deprive the tribunal of power to hear and determine the case, i.e., does not make the case moot”); *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (“[A] defendant cannot automatically moot a case simply by ending its unlawful conduct once sued.”). To meet this formidable burden, the Supreme Court has required either (1) evidence that the defendant has repudiated its past conduct, *Los Angeles County v. Davis*, 440 U.S. 625, 628, 632-33 (1979), or (2) a “clearly effective barrier” to the conduct’s recurrence, *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 457 n.1 (2017). Neither is present here.

**A. Respondents have not repudiated their past conduct.**

Respondents have not met their high burden to moot this case because they have in no way admitted, let alone repudiated their unlawful conduct. Respondents provide no justification for L-A-R-A’s warrantless arrest and attempt to justify L-A-R-A’s detention only under their 8 U.S.C. § 1225(b)(2) custody authority. Declaration of Matthew Randall, ECF 19 ¶ 5. As Respondents well know, this interpretation of § 1225(b)(2) has clearly and repeatedly been rejected by this Court and dozens of others. As this Court recently held in *ABD v. Wamsley*, “§ 1225(b)(2) applies to noncitizens who ‘are seeking’ admission into the U.S. at the time of arrest, not to noncitizens who already reside in the U.S. at the time of arrest.” No. 6:25-cv-02014-AA, at 19 (D. Or. Jan. 22, 2026). Section 1226, in contrast, allows discretionary (but not mandatory)

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voluntary cessation doctrine and finding the government’s agreement not to remove petitioners while their habeas petitions were pending did not moot the case).

detention of those like L-A-R-A- who are “already in the country pending the outcome of removal proceedings.” *Id.* (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)). “[D]ozens of courts in this circuit and across the country” have concluded the same. *Id.*; *see also, e.g., J.Y.L.C. v. Bostock*, 2:25-cv-02083-AB (D. Or. Nov. 12, 2025); *M-E-G-G- v. Hermsillo*, No. 3:25-cv-02160-AB, ECF 12 (D. Or. Nov. 28, 2025). Respondents acknowledge as such in a footnote, ECF 18 at 3 n.1, but make no attempt to distinguish the cited cases from this District.<sup>3</sup>

The voluntary cessation doctrine applies “whether the challenged conduct might recur immediately or later at some more propitious moment.” *Fikre*, 601 U.S. at 243. *See also Parents Involved in Community Schools v. Seattle School Dist.*, 551 U.S. 701, 719–720 (2007) (declining to dismiss a case as moot five years after the defendant voluntarily ceased its challenged conduct); *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283 (1982) (similar). Because Respondents have neither acknowledged nor repudiated their prior unlawful conduct, and indeed, continue to engage in the challenged unlawful conduct in Oregon, it is clear that L-A-R-A- remains at risk of being subjected to Respondents’ unlawful conduct in the future, and thus this Court can and should grant him relief.

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<sup>3</sup> Confusingly, Respondents argue that the declaratory judgment in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), is not binding here because “the *Maldonado Bautista* court lacks jurisdiction over a habeas proceeding located outside of that district.” ECF 18 at 3 n.1. But the *Maldonado Bautista* decision vacated a DHS policy wrongly interpreting § 1225(b)(2) and certified a nationwide class of noncitizens like L-A-R-A- who entered the United States without inspection, were not apprehended upon arrival, and who are not subject to other mandatory detention provisions. 2025 WL 3713987 at \*32. It is a longstanding rule that vacatur sets aside the rule or policy completely. *See, e.g., Nat’l Mining Ass’n v. U.S. Army Corps of Eng’rs*, 145 F.3d 1399, 1409 (D.C. Cir. 1998); *Harmon v. Thornburgh*, 878 F.2d 484, 495 n.21 (D.C. Cir. 1989) (“When a reviewing court determines that agency regulations are unlawful, the ordinary result is that the rules are vacated—not that their application to the individual petitioners is proscribed.”); *cf East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 681 (9th Cir. 2021) (“Because of the broad equitable relief available in APA challenges, a successful APA claim by a single individual can affect an ‘entire’ regulatory program.”) (citing *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 890 n.2).

**B. Respondents have established no clearly effective barrier to future unlawful conduct.**

Even if Respondents had repudiated their prior unlawful conduct, they provide no assurances to the Court that they will not again subject L-A-R-A- to unlawful detention. The Supreme Court has held that a “case continues to present a live case or controversy” where a petitioner’s release is “subject to the Secretary’s discretionary authority to terminate.” *Clark v. Martinez*, 543 U.S. 371, 376 n.3 (2005). Similarly, the Ninth Circuit has applied the voluntary cessation exception to mootness where “absent action by this court—the government could redetain [a noncitizen], and deny him a bond hearing, at any time.” *Diouf v. Napolitano*, 634 F.3d 1081, 1084 n.3 (9th Cir. 2011); *see also Rodriguez v. Hayes*, 591 F.3d 1105, 1117–18 (9th Cir. 2010) (similar).

Here, Respondents released L-A-R-A- from custody wholly in response to this lawsuit and in their sole discretion. No Respondent has made an assurance to this Court that Petitioner will not be re-detained in the same manner. In this way, L-A-R-A- is even less protected than the petitioners in *N-E-M-B-* and *J-C-R-M-*, where the court nevertheless found that Respondents’ sworn declarations offering some limited protection were insufficient to preclude future unlawful detention. *See N-E-M-B- v. Bostock*, No. 3:25-cv-00989-SI, ECF 25 at 9 (D. Or. Dec. 9, 2025) (rejecting Respondents’ mootness argument even when they provided a sworn statement from the ICE Assistant Field Office Director that petitioner would not be re-detained); *J-C-R-M- v. Bostock*, No. 3:25-cv-990-SI, ECF 26 at 15 (D. Or. Dec. 9, 2025) (same); *see also E-M-*, Case No. 3:25-cv-1083-SI, ECF 28 at 6 (finding voluntary release failed to moot claims where “Defendants submitted a declaration stating that ICE would not redetain Petitioner only through [a set date]”). Because Respondents have made no assurances at all – let alone sufficient

assurances – that would protect L-A-R-A- from future unlawful detention, they have not met their high burden of mooted his case.

**II. Petitioner’s unlawful arrest and detention have resulted in collateral consequences.**

There are also “collateral consequence[s]” that may be redressed by L-A-R-A-’s success on his petition. *See Abdala v. I.N.S.*, 488 F.3d 1061, 1064 (9th Cir. 2007). “For a habeas petition to continue to present a live controversy after the petitioner’s release or deportation, . . . there must be some remaining ‘collateral consequence’ that may be redressed by success on the petition.” *Id.* After unlawfully arresting and detaining him, Respondents served L-A-R-A- with a Notice to Appear, initiating removal proceedings against him under 8 U.S.C. § 1182(a)(6)(A)(i), and placed him on an order of release that included restrictions on his liberty. Randall Declaration, ECF 19 ¶ 6. Though Respondents later moved to dismiss the Notice to Appear and canceled L-A-R-A-’s OREC, *id.* ¶ 7, absent further relief from this court, Respondents would be free use the information they collected during L-A-R-A-’s unlawful arrest and detention to re-detain L-A-R-A- and re-file the Notice to Appear at any time in the future.

Because the information collected by Respondents as a result of LA-R-A-’s unlawful warrantless arrest and detention may result in future “concrete legal disadvantages” to L-A-R-A-, they may be redressed by success on this petition. *See Zegarra-Gomez v. I.N.S.*, 314 F.3d 1124, 1125 (9th Cir. 2003) (a petitioner’s deportation does not moot a habeas when “collateral consequences aris[e] from the deportation that create concrete legal disadvantages.”).

**III. The Court should grant the writ of *habeas corpus* on all counts.**

**A. Respondents May Not Lawfully Detain Petitioner Under 8 U.S.C. § 1225(B)(2)(A).**

Respondents assert that the basis for Petitioner’s arrest and subsequent detention on October 28, 2025 is 8 U.S.C. § 1225(b)(2)(A). *See* Randall Decl. ¶ 5. But Respondents have no

lawful basis to apply this custody authority to Petitioner. Respondents have adopted a new blanket policy to classify any noncitizens who previously arrived in the United States without documentation as subject to mandatory detention under 8 U.S.C. § 1225(b)(2). ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, AILA Doc. No. 25071607, July 8, 2025, available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>. Dozens of federal courts have rejected this policy as unlawful, finding that 8 U.S.C. § 1225(b)(2) does not apply to individuals such as L-A-R-A- who have been residing in the United States and may not be detained without an individualized custody determination pursuant to 8 U.S.C. § 1226. *See, e.g., J.Y.L.C. v. Bostock*, No. 3:25-cv-02083-AB (D. Or. Nov. 12, 2025) (citing over 30 habeas corpus cases across the United States rejected 8 U.S.C. § 1225(b)(2) as an unlawful custody application); *see also* Kyle Cheney, “More than 100 judges have ruled against the Trump admin’s mandatory detention policy,” POLITICO, Oct. 31, 2025 04:29 PM, <https://www.politico.com/news/2025/10/31/trump-administration-mandatory-detentiondeportation-00632086>. Even more recently, courts in this District have similarly found that Respondents’ blanket use of § 1225(b)(2) as a basis for custody to individuals already residing in the United States, is unlawful. *See A-B-D- et. at. V. Wamsley et. al.*, No. 6:25-cv-02014 (D. Or. Jan. 22, 2026) (explaining that § 1225(b)(2) does not apply when Petitioners had been living in the United States for years).

Moreover, courts have similarly found that sections 1226(a) and 1225(b)(2) are mutually exclusive, and the government may not contend that a person who has resided in the United States for months or even years is now an “applicant for admission” under § 1225(b)(2). *Martinez v. Hyde*, 792 F. Supp. 3d 211, 223 (D. Mass. 2025) (concluding § 1225(b)(2) “simply had no application” in case of noncitizen detained who had entered the U.S. more than a year before); *Patel v. Crowley*,

2025 WL 2996787, at \*5-9 (N.D. Ill. Oct. 24, 2025) (granting a habeas corpus petition after finding the BIA holding on *Yajure Hurtado* unpersuasive and stating that “virtually all courts that have considered this issue have rejected the reasoning” that a person “seeking admission” is synonymous with an “applicant for admission”); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289, 138 S. Ct. 830, 838 (2018) (distinguishing § 1225, which applies to noncitizens “seeking admission into the country”, from § 1226, authorizing detention for certain noncitizens “already in the country”).

Respondents may not simply decide that §1225(b)(2) applies without at least some factual basis to assert that the Petitioner is an “applicant for admission.” *See Patel*, 2025 WL 2996787, at \*6. Absent any facts that show that L-A-R-A-, a long time Oregon resident, is an “applicant for admission,” the only basis Respondents assert for taking him into custody on October 28 is unlawful.

Additionally, the Court should grant the habeas petition because Respondents’ violated L-A-R-A-’s rights under the Fourth Amendment, the Fifth Amendment, and the Administrative Procedures Act, as they arrested him without probable cause that he was a flight risk, which is necessary to justify a warrantless arrest, and without an individualized determination regarding the need to take him into custody. Respondents at no point contend that they conducted the required analysis under 8 U.S.C. § 1357, as restated in the *Nava* Broadcast Policy, *see* 8 U.S.C. § 1357 (allowing immigration officers to conduct a warrantless arrest only with “reason to believe” the person is both in the United States in violation of immigration law *and* that the person “is likely to escape before a warrant can be obtained for his arrest.”), or that they considered his individual circumstances before deciding to detain him. Respondents only assert that such violations cannot be remedied in habeas, ECF 18 at 4, but they are wrong. *See A-B-D- et. at. v. Wamsley et. al.*, No.

6:25-cv-02014, at 26-33 (D. Or. Jan. 22, 2026) (granting habeas because, in part, Respondents violated Petitioners' Fourth Amendment rights by arresting them without probable cause); *accord Gibson v. Bondi*, No. 0:26-cv-00172, ECF 6, (D. Minn. Jan. 15, 2026) (granting immigration habeas on Fourth Amendment grounds); *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 373 (S.D.N.Y. 2019) ("As Petitioner's arrest and detention were blatantly unlawful from the start, the only commensurate and appropriate equitable remedy . . . is to immediate[ly] release [Petitioner] and enjoin the Government from further similar transgressions").<sup>4</sup>

### CONCLUSION

For the aforementioned reasons, Petitioner respectfully requests that this Court grant the writ of habeas corpus and issue the relief sought by L-A-R-A-. *See* ECF 1 at 19. Should the Court find the requested relief overbroad, L-A-R-A- requests that the Court order that: (1) the application of 8 U.S.C. § 1225(b)(2) to Petitioner was unlawful; (2) Petitioner was detained in violation of his Fifth Amendment due process rights; (3) Petitioner was subject to an unlawful warrantless arrest in violation of 8 U.S.C. § 1357(a)(2) and the Fourth Amendment; (4) Respondents shall expunge from their records any biometric data and other identifying information obtained from their unlawful warrantless arrest of Petitioner on October 28, 2025; (5) Respondents may not re-detain Petitioner without notice and an opportunity to respond to an individualized custody determination; and (6) unless otherwise ordered by this Court, Respondents may not remove Petitioner from the District of Oregon without 30 days' notice of

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<sup>4</sup> The language Respondents' reference from *L-J-P-L-* is dicta, *see* ECF 18 at 5; the petition in that case was denied because the Court believed it had "no choice but to conclude that, under existing immigration laws," Petitioner was subject to mandatory detention under 8 U.S.C. § 1231(a)(2), governing reinstatement of removal. 2025 WL 2430268, at \*1.

their intent to do so, to give him the opportunity to challenge any future unlawful detention through appropriate habeas proceedings before this Court.

Dated: January 28, 2026

Respectfully submitted,

/s/ Jordan Cunnings

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