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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Eugene Division

M-J-M-A-, an adult,
Petitioner,

v.

CAMILLA WAMSLEY, 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.

Agency No. unknown

PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. Petitioner M-J-M-A- is an Oregon farmworker.

2. On the morning of October 30, 2025, Petitioner was detained by Respondents' agents as part of a widespread enforcement sweep that targeted farmworkers on their way to work across Marion County and the surrounding areas.

3. On the morning of October 30, 2025, Petitioner M-J-M-A- was driving to work when their vehicle was pulled over by immigration officers in downtown Woodburn, Oregon.

4. Upon information and belief, Petitioner's vehicle was stopped and Petitioner was arrested and detained by Respondents without notice or cause. Respondents did so based not on Petitioner's personal circumstances or individualized facts, but because of Respondents' interpretation of President Trump's order that they "to do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History."[1] 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).

5. "At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *INS v. St. Cyr*, 533 U.S. 289, 301 (2001), *superseded on other grounds by statute as stated in Patel v. U.S. Att'y Gen.*, 971 F.3d 1258, 1270 (11th Cir. 2020). The writ is meant to provide exactly the relief that Petitioner seeks here: to prevent the Respondents—a whole set of immigration agencies with vast resources, who have at their disposal a punitive

[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.").

detention system and agents roving the streets to arrest immigrants—from setting themselves above the law in order to detain them.

6. In their lawless pursuit of detention bed quotas,[2] Respondents cast aside Petitioner's due process rights—a bedrock of American freedom—to stop Petitioner without reasonable suspicion and arrest Petitioner without probable cause, ignoring the laws governing warrantless arrests and their own agency policy prohibiting them from doing so.

7. Moreover, warrantless arrest without probable cause violates both 8 U.S.C. § 1357, which requires reason to believe the person "is likely to escape" before a warrant could be obtained, and ICE's own nationwide policy, to which it is bound pursuant to a settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), which requires consideration of specific factors to determine if someone is likely to escape and documentation of these "specific particularized facts" in the I-213.[3] Pursuant to the October 7, 2025, order of the U.S. District Court for the Northern District of Illinois, Respondent ICE reissued its Broadcast of this policy (hereafter, "*Nava* Broadcast Policy") to all ICE officers nationwide on October 22, 2025, with the instruction that the *Nava* Broadcast Policy shall remain in effect through February 2, 2026. *See id.* at Dkt. 224, 224-1 at ¶ 5.

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[2] 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/, https://perma.cc/DB9R-MJUC (last visited Sept. 18, 2025) ("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.").

[3] Form I-213, known as a "Record of Deportable/Inadmissible [Noncitizen]" . . . is an 'official record' prepared by immigration officials when initially processing a person suspected of being in the United States without legal permission." *Punin v. Garland*, 108 F.4th 114, 119 (2d Cir. 2024) (cleaned up).

8. Respondents' arrest of Petitioner follows a pattern in recent months: detain first, justify later. But that is not the law.

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

JURISDICTION

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

11. 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).

12. 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

13. Venue is proper because Petitioner is in Respondents' custody in the District of Oregon. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' custody. 28 U.S.C. § 1391(e).

14. Divisional venue is proper under Local Rule 3-2 because Petitioner was taken into Respondents' custody in Marion County and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this Division.

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

15. 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 are 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.*

16. 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).

17. Petitioner is "in custody" for the purpose of § 2241 because Petitioner are arrested and detained by Respondents.

PARTIES

18. Petitioner M-J-M-A- is an Oregon farmworker who is present within the state of Oregon as of the time of the filing of this petition.[4]

[4] Petitioner seeks leave to proceed anonymously because public identification creates a risk of retaliation due to Petitioner's decision to bring this lawsuit. *See, e.g.*, Jonah Valdez, "ICE won't rule out retaliating against immigrants who testify in free speech case," *The Intercept* (June 7, 2025), available at https://theintercept.com/2025/06/07/ice-deport-free-speech-aaup-rubio/ (describing ICE refusal to agree that witnesses would not be targeted for deportation or detention due to their participation in the legal case). 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.'" *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000) (collecting cases; internal citations omitted). The Petitioner would provide Petitioner's identity to the Respondents and the Court under seal.

19. Respondent Cammilla Wamsley 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 Wamsley is a legal custodian of Petitioner.

20. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement and has authority over the actions of respondent Drew Bostock and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

21. 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.

22. 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.

23. 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.

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

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

LEGAL FRAMEWORK

26. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV.

27. 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).

28. "Except at the border and its functional equivalents," immigration agents may stop individuals in public only after identifying "specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion" of a violation of immigration law. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *Benitez-Mendez v. I.N.S.*, 752 F.2d 1309, 1311 (9th Cir. 1983), *amended*, 760 F.2d 907 (9th Cir. 1983); *see also* 8 C.F.R. § 287.8(b)(2) (allowing officer to "briefly detain" a noncitizen for questioning if the officer "has a reasonable suspicion, based on specific articulable facts" that the noncitizen is engaged in an offense or is unlawfully in the United States).

29. Reasonable suspicion for an immigration stop cannot be based "on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the particular person to be stopped." *United States v. Rodriguez Sanchez*, 23 F.3d 1488, 1492 (9th Cir. 1994). Rather, reasonable suspicion must be "particularized and objective," *United States v. Arvizu*, 534 U.S. 266, 273 (2002), meaning the officer has reasonable suspicion as to "the particular person being stopped." *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc). Information obtained from an officer's lawful questioning "may provide the basis for a subsequent arrest." 8 C.F.R. § 287.8(b)(3).

30. Immigration officers may arrest an individual without a warrant in limited circumstances. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012) (noting strong Congressional preference, as expressed in INA, for immigration arrests to be based on warrants).

31. The INA permits warrantless arrest if an immigration officer has reason to believe that a noncitizen (1) is in the United States in violation of the immigration laws and (2) "is likely to escape before a warrant can be obtained for his arrest". 8 U.S.C. § 1357(a)(2); *accord.* 8 C.F.R. § 287.8(c)(2)(i)-(ii). An officer "has reason to believe" when they have the equivalent of "the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

32. The Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. *See* U.S. Const., amend. V. *See Kastigar v. United States*, 406 U.S. 441, 444–45 (1972) (The privilege against self-incrimination "can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory . . . This Court has been zealous to safeguard the values which underlie the privilege."). An immigration officer may not establish probable cause on the basis of a noncitizen's silence pursuant to his Fifth Amendment rights. *See Hurd v. Terhune,* 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming "the fundamental principle that a suspect's silence in the face of questioning cannot be used as evidence against him at trial").

33. If an immigration officer makes a warrantless arrest, at the time of an arrest and "as soon as it is practical and safe to do so," immigration officers must identify themselves as immigration officers authorized to make arrests, inform the person arrested that they are under arrest, and state the reason for the arrest. 8 C.F.R. § 287.8(c)(2)(iii). The noncitizen must then "be taken without unnecessary delay for examination before an officer of the Service having authority

to examine [noncitizens] as to their right to enter or remain in the United States." 8 U.S.C. § 1357(a)(2).

34. ICE is bound not only by statute and due process, but also by its national policy adopted pursuant to settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.). Under this policy, ICE must consider a delineated list of factors before making an arrest, including (a) the officer's ability to determine the individual's identity; (b) knowledge of the individual's prior escapes or evasions of immigration authorities; (c) the individual's attempts to flee to avoid being discovered by immigration; and (d) the individual's ties to the community, such as a family, home, or employment. Settlement Agreement, *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), *available at* https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava_Settlement_ICE_Warrantless_Arrest-Vehicle_Stop_Policy_2021.pdf. Respondent ICE reissued its Broadcast of this policy (hereafter, "*Nava* Broadcast Policy") to all ICE officers nationwide on October 22, 2025, with the instruction that the *Nava* Broadcast Policy shall remain in effect through February 2, 2026. *See id.* at Dkt. 224, 224-1 at ¶ 5.

FACTUAL BACKGROUND

Respondents' Detention and Deportation Policies

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

36. In late May, Respondent Secretary 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.[5]

37. 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."[6]

38. 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.[7] As another e-mail put it: "If it involves handcuffs on wrists, it's probably worth pursuing."[8]

39. The overriding message, communicated by and to Respondents, is that agents and officers carrying out immigration operations on the ground must prioritize arrest numbers,

[5] 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.

[6] 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).

[7] 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.

[8] 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.

regardless of the law. As one ICE official put it earlier this year, all that matters is "numbers, pure numbers, [q]uantity over quality."[9]

Petitioner' Background and Arrest

40. Petitioner M-J-M-A is an Oregon farmworker.

41. On the morning of October 30, 2025, Petitioner M-J-M-A- was driving to work with other farmworkers when her vehicle was pulled over by immigration officers in downtown Woodburn, Oregon. Officers did not ask her name or show any papers. They broke the glass of the car window and detained everyone in the car.

42. On information and belief, at no point during the stop did any agent produce a warrant, explain why Petitioner had been stopped initially, or provide any documents of any kind.

43. On information and belief, at no point during the stop did any agent provide their name or badge number to Petitioner or advise Petitioner that they were immigration officials authorized to make immigration arrests.

44. On information and belief, at no point during the stops did any agent ask any Petitioner any questions about her family, employment, or community ties.

45. On information and belief, at no time during the stops did any officer conduct an individualized assessment of whether any Petitioner was a flight risk.

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[9] 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/, https://perma.cc/DB9R-MJUC (last visited Oct. 15, 2025) ("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.").

46. On information and belief, at no time during the stop did any officer conduct an individualized assessment of whether any Petitioner was a danger to the community.

47. On information and belief, at the time of the warrantless arrest, Respondents' officers had determined based solely on Petitioner's apparent race and ethnicity that Petitioner was in the United States without status.

48. On information and belief, the agents who stopped and detained Petitioner had no reasonable suspicion that any Petitioner was either a flight risk or unlawfully present in the United States.

49. On information and belief, Respondents detained and are seeking to transfer Petitioner regardless of the individual facts and circumstances of Petitioner's case.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fourth Amendment of the United States Constitution Unreasonable Seizure

50. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

51. Except at the border and its functional equivalents, the Fourth Amendment to the U.S. Constitution prohibits Respondents from conducting a detentive stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States. Likewise, the Fourth Amendment prohibits Respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

52. "A person's mere propinquity to others independently suspected of [unlawful] activity does not, without more, give rise to probable cause to search [or seize] that person." *Perez*

Cruz v. Barr, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted). "'Reasonable suspicion' is no different." *Id.*

53. Race or apparent ethnicity, standing alone, cannot form the basis for reasonable suspicion. *United States v. Brignoni-Ponce*, 422 U.S. 873, 886-87 (1975). Because probable cause is a more demanding standard than reasonable suspicion, race or apparent ethnicity, standing alone, is also necessarily insufficient to form the basis for probable cause.

54. Respondents had no basis to detain Petitioner and inquire about their immigration status other than their race and apparent ethnicity. Likewise, Respondents had no basis to arrest Petitioner other than their race and apparent ethnicity. No other salient factors existed to suggest that Petitioner might not be citizens of the United States. Because Respondents only detained Petitioner because of her race, they did not have reasonable suspicion, and the detention violated the Fourth Amendment.

55. Petitioner was detained by Respondents for questioning despite officers' lack of any reasonable suspicion that Petitioner were unlawfully in the United States. Petitioner was also ultimately arrested despite officers' lack of probable cause to believe that Petitioner was either a flight risk or present unlawfully in the United States.

56. Respondents' stop of Petitioner without reasonable suspicion and arrest of Petitioner without probable cause violate the Fourth Amendment to the U.S. Constitution.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Violation of 8 C.F.R. § 287.8(c)(2)(ii)
Detentive Stop Without Reasonable Suspicion

57. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

58. Under the APA, a court shall "hold unlawful and set aside agency action" that is not in accordance with law or an abuse of discretion. 5 U.S.C. § 706(2)(A).

59. 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)).

60. 8 C.F.R. § 287.8(c)(2)(ii) requires that before detaining an individual for questioning, an immigration officer must have "a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States."

61. Respondents' detentive stop of Petitioner, without any reasonable suspicion of a qualifying offense, violate the APA and Respondents' authority under 8 C.F.R. § 287.8(c)(2).

62. Separate from the APA, Respondents' detention of Petitioner without any reasonable suspicion is *ultra vires*.

COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(i)
Warrantless Arrest Without Probable Cause of Immigration Violation

63. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

64. Under the APA, a court shall "hold unlawful and set aside agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

65. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has "reason to believe" that an individual is in the United States in violation of the immigration laws. A "reason to believe" is equivalent to "the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

66. 8 C.F.R. § 287.8(c)(2)(i) requires that before making a warrantless arrest, an immigration officer must have probable cause "to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States."

67. Because criminal penalties may attach to some immigration offenses, the Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. *See* U.S. Const., amend. V. An immigration officer may not establish probable cause on the basis of a noncitizen's silence pursuant to his Fifth Amendment rights. *See Hurd v. Terhune,* 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming "the fundamental principle that a suspect's silence in the face of questioning cannot be used as evidence against him at trial").

68. Respondents' warrantless arrest of Petitioner, based on no information beyond their apparent race and ethnicity, is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

69. Separate from the APA, Respondents' warrantless arrest of Petitioner without probable cause that Petitioner had committed an immigration violation are *ultra vires*.

COUNT FOUR

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(ii)
Warrantless Arrest Without Probable Cause of Likelihood of Escape

70. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

71. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has "reason to believe" that an individual is "likely to escape before a warrant can be obtained for [their] arrest." To meet this requirement, officers must have "grounds for a reasonable belief that they were particularly likely to escape." *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995). A "reason to believe" is equivalent to "the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

72. 8 C.F.R. § 287.8(c)(2)(ii) requires that before making a warrantless arrest, an immigration officer must make an individualized determination that an individual is "likely to escape before a warrant can be obtained."

73. Respondents' warrantless arrest of Petitioner without an individualized determination that Petitioner was "likely to escape" before a warrant is issued is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

74. Separate from the APA, Respondents' warrantless arrest of Petitioner without probable cause that Petitioner was likely to escape before a warrant could be obtained is *ultra vires*.

COUNT FIVE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Violations of the *Accardi* Doctrine
Violations of *Nava* Broadcast Policy on Warrantless ICE Arrests and Vehicle Stops

75. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

76. The APA authorizes this Court to set aside agency action that is "arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

77. Respondent ICE is bound by the *Nava* Broadcast Policy, pursuant to the *Castañon Nava* settlement agreement, to consider a delineated set of factors before effectuating a warrantless arrest. In particular, before concluding whether or not the person is at risk of fleeing before a warrant is obtained, ICE must consider "the totality of circumstances," including the following factors: "the ICE Officer's ability to determine the individual's identity, knowledge of that individual's prior escapes or evasions of immigration authorities, attempted flight from an ICE Officer, ties to the community (such as a family, home, or employment) or lack thereof, or other specific circumstances that weigh in favor or against a reasonable belief that the subject is likely to abscond." Settlement Agreement, *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), *available at* https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava_Settlement_ICE_Warrantless_Arrest-Vehicle_Stop_Policy_2021.pdf.

78. Moreover, ICE Officers "may stop a vehicle to enforce civil immigration laws only if they are aware of specific, articulable facts that reasonably warrant suspicion that the vehicle contains an [noncitizen] who may be illegally in the country." *Id.*

79. Pursuant to the October 7, 2025, order of the U.S. District Court for the Northern District of Illinois, Respondent ICE reissued the *Nava* Broadcast Policy to all ICE officers

nationwide on October 22, 2025, with the instruction that the *Nava* Broadcast Policy shall remain in effect through February 2, 2026. *See Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.) at Dkt. 224, 224-1 at ¶ 5.

80. On information and belief, Respondent ICE conducted a warrantless arrest of Petitioner without considering the totality of circumstances or the required factors delineated in its nationwide policy, pursuant to the *Castañon Nava* settlement. Respondent ICE also stopped Petitioner's vehicle without any "specific, articulable facts that reasonably warrant suspicion", as required by the settlement. Respondents' traffic stop and warrantless arrest of Petitioner violates their own binding policy (to which they are also bound by court order) and therefore violate the APA.

COUNT SIX

Violation of Fifth Amendment Right to Due Process
Procedural Due Process

81. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

82. 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); *accord Flores*, 507 U.S. at 306.

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

opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

84. Here, Petitioner has been stopped, arrested, and detained in an arbitrary manner, without any notice of the basis for Petitioner's arrest and continued detention, and not based on a rational and individualized determination of whether Petitioner should be detained based on the individual facts and circumstances pertaining to whether Petitioner was a flight risk or unlawfully present in the United States.

85. Respondents' stop, arrest, and continued detention of Petitioner violates Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an immediate Order prohibiting the Respondents from transferring Petitioner from the District of Oregon without notice to and approval by the Court;

(3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(4) Declare that Petitioner's defective stops without reasonable suspicion violate the APA, the INA, and the Fourth Amendment;

(5) Declare that Petitioner's warrantless arrests without probable cause violate the Fourth Amendment, the APA, the INA, and implementing regulations;

(6) Declare that Petitioner's warrantless arrests and traffic stops without reasonable suspicion violate Respondents' nationwide *Nava* Broadcast Policy;

(7) Declare that Petitioner's deprivation of liberty through their unlawful stops and arrests violate the Due Process Clause of the Fifth Amendment;

(8) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

86. Award Petitioner attorneys' 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: October 30, 2025.

/s/ Stephen W. Manning

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