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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

M-Z-H,


Petitioner,

v.

LAURA HERMOSILLO, Seattle Field Office
Director, Immigration and Customs Enforcement
and Removal Operations ("ICE/ERO"); TODD
LYONS, Acting Director of U.S. Immigration
Customs Enforcement ("ICE"); KRISTI NOEM,
Secretary of the Department of Homeland Security
("DHS"); PAMELA BONDI, Attorney General of
the United States; BRUCE SCOTT, Warden,
Northwest ICE Processing Center ("NWIPC"); ICE;
and DHS.

Respondents.

Case No.: 25-6107

Agency No. 

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

I. INTRODUCTION

1
2 1. This case challenges the unlawful re-detention of Petitioner M-Z-H, who
3 is currently in the physical custody of Respondents at the Northwest Immigration and Customs
4 Enforcement (“ICE”) Processing Center (“NWIPC”).

5 2. Respondents released Petitioner from their custody on his own
6 recognizance on or about December 11, 2023. Respondents then commenced removal
7 proceedings against Petitioner, entitling Petitioner to present an asylum claim with the due
8 process rights under 8 U.S.C. § 1229a. Petitioner timely applied for asylum, withholding of
9 removal and protection under CAT before the immigration court on or about April 4, 2024.

10 3. Since his release from immigration custody over 2 years ago, Petitioner
11 has diligently complied with every condition, request, demand, and requirement imposed by the
12 Respondents of which he is aware. In addition, the Petitioner has complied with all the court
13 and legal timelines for his asylum case.

14 4. Upon information and belief, on November 12, 2025, Petitioner was
15 arrested and re-detained by Respondents without notice or cause.

16 5. Prior to re-detaining Petitioner, Respondents did not provide any written
17 notice explaining the basis for the revocation of his release. Likewise, Respondents did not
18 assess whether Petitioner presented a flight risk or danger to the community prior to his rearrest.
19 Nor did Respondents provide a hearing before a neutral decision-maker, where ICE would have
20 been required to justify the basis for Petitioner’s re-detention.

21 6. Respondents re-detained Petitioner, not based on his personal
22 circumstances or individualized facts, but because of Respondents’ interpretation of President
23

1 Trump’s order that they “do all in their power to achieve the very important goal of delivering
2 the single largest Mass Deportation Program in History.”¹

3 7. Respondents’ arrest of Petitioner follows a pattern in recent months:
4 detain first, justify later. But that is not the law. Indeed, Respondents’ power to detain remains
5 checked by law, as this country remains “a government of laws and not of men.” *Cooper v.*
6 *Aaron*, 358 U.S. 1, 23 (1958) (Frankfurter, J. Concurring) (cleaned up).

7 8. As this Court has recently held in multiple cases, due process demands a
8 hearing *prior* to the government’s decision to terminate a person’s liberty. *See E.A. T.-B. v.*
9 *Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash.
10 Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF,
11 2025 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No.
12 2:25-CV01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); *Kumar v.*
13 *Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17,
14 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-MLP
15 (W.D. Wash. Oct. 15, 2025), Dkt. 13. Many other courts have recently held the same.

16 9. By failing to provide such a hearing, Respondents have violated
17 Petitioners’ constitutional rights to due process.

18 10. Accordingly, this Court should grant the instant petition for a writ of
19 habeas corpus and order Petitioners’ immediate release. *See E.A. T.-B.* 2025 WL 2402130, at *6
20 (ordering immediate release because “a post-deprivation hearing cannot serve as an adequate
21

22 ¹ Pres. Donald Trump, @realDonaldTrump, Truth Social (June 15, 2025, 5:43pm) (“ICE Officers are herewith
23 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.”).

1 procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of
2 liberty”); *Ramirez Tesara*, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar);
3 *Ledesma Gonzalez*, 2025 WL 2841574, at *9 (similar).

4 JURISDICTION

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

7 12. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
8 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
9 Constitution (Suspension Clause).

10 13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §
11 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act,
12 28 U.S.C. § 1651.

13 VENUE

14 14. Venue is proper because Petitioner is in Respondents’ custody at the
15 NWIPC in Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of*
16 *Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the judicial district in which Petitioners
17 are currently in custody.

18 15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
19 because Respondents are employees, officers, and agencies of the United States, and because a
20 substantial part of the events or omissions giving rise to the claims occurred in the Western
21 District of Washington.

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

1 they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v.*
2 *Davis*, 533 U.S. 678, 690 (2001).

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

5 29. The INA establishes various procedures through which individuals may
6 be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).

7 30. Removal proceedings described in section 240 of the INA are used to
8 determine whether individuals, such as Petitioner, should be removed from the United States.
9 *See* 8 U.S.C. § 1229a.

10 31. The Refugee Act of 1980, the cornerstone of the U.S. asylum system,
11 provides a right to apply for asylum to individuals seeking safe haven in the United States. The
12 purpose of the Refugee Act is to enforce the “historic policy of the United States to respond to
13 the urgent needs of persons subject to persecution in their homelands.” Refugee Act of 1980, §
14 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

15 32. The “motivation for the enactment of the Refugee Act” was the United
16 Nations Protocol Relating to the Status of Refugees, “to which the United States had been
17 bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee
18 Act reflects a legislative purpose “to give ‘statutory meaning to our national commitment to
19 human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir.
20 1985).

21 33. The Refugee Act established the right to apply for asylum in the United
22 States and defines the standards for granting asylum. It is codified in various sections of the
23 INA.

1 34. The INA gives the Attorney General or the Secretary of Homeland
2 Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under
3 that definition, individuals generally are eligible for asylum if they have experienced past
4 persecution or have a well-founded fear of future persecution on account of race, religion,
5 nationality, membership in a particular social group, or political opinion and if they are unable
6 or unwilling to return to and avail themselves of the protection of their homeland because of
7 that persecution or fear. 8 U.S.C. § 1101(a)(42)(A).

8 35. Although a grant of asylum may be discretionary, the right to apply for
9 asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen
10 “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C.
11 § 1158(a)(1).

12 36. Immigration detention is a form of civil confinement that “constitutes a
13 significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441
14 U.S. 418, 425 (1979).


15 37. Custody determinations for individuals in 1229a removal proceedings are
16 governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not
17 present a danger to persons or property and is not a flight risk. *Zadvydas*, 533 U.S. at 690;
18 *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Custody determinations under § 1226(a) are
19 individualized and based on the facts presented in those cases. Unlike § 1226(c), which can
20 provide for categorical determinations for detention regardless of flight risk or safety risks, §
21 1226(a) requires a case-by-case review of the facts and circumstances.

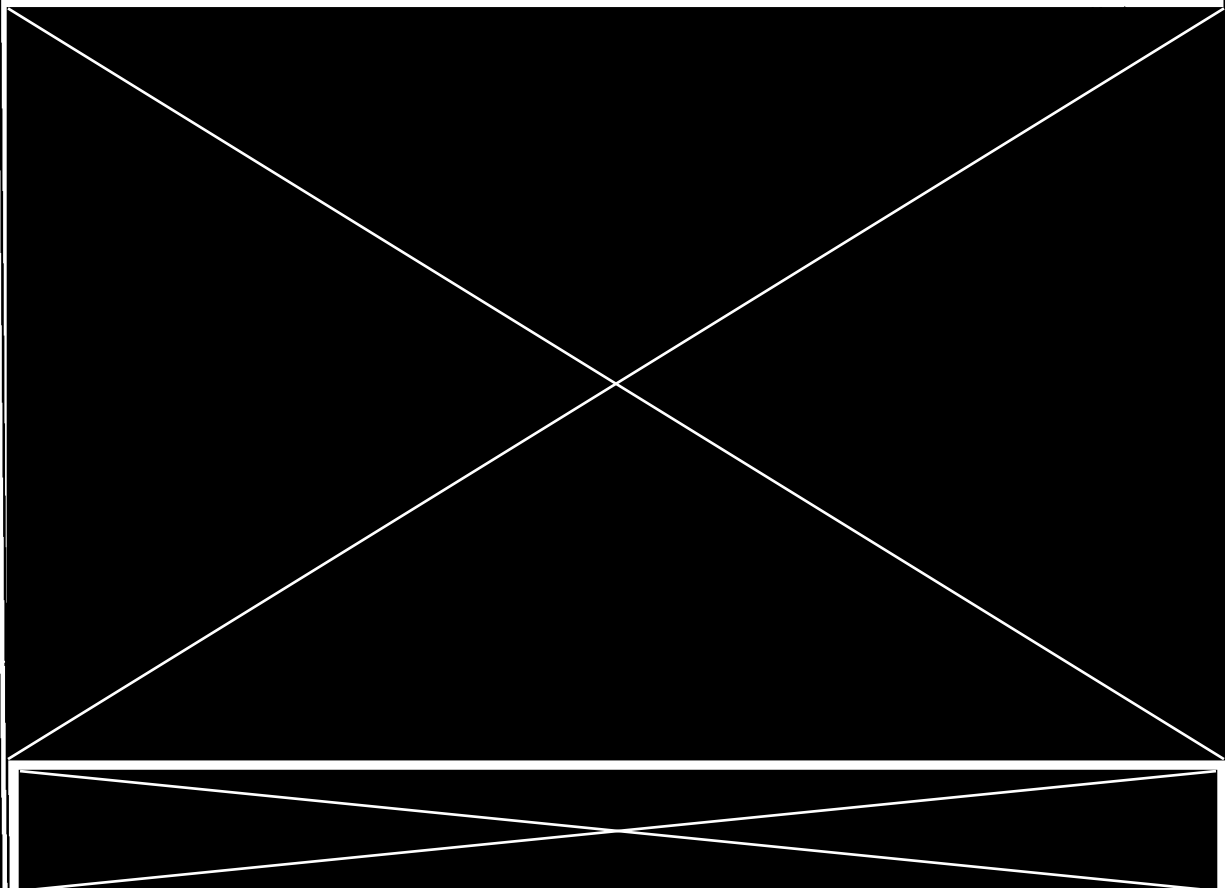
22 38. Once a determination to release an individual from custody is made, the
23 release order may be revisited when the facts or circumstances warrant revocation or

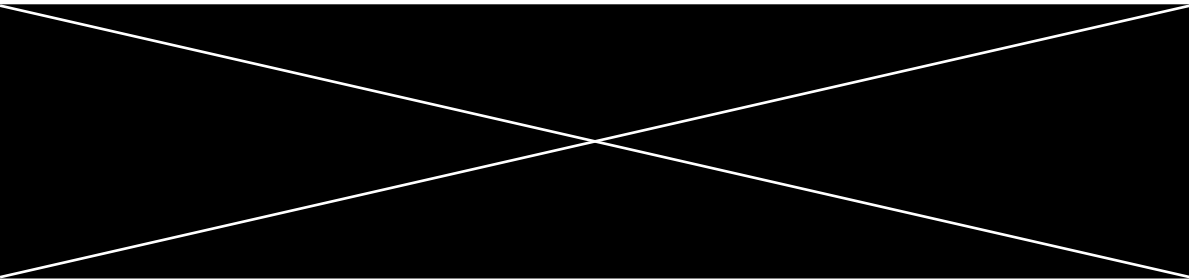
1 reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney
2 General may take that individual back into custody by revoking the individual's release when
3 the facts and circumstances warrant it.

4 39. Revocation and return to custody is authorized only based on
5 individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation
6 decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. §
7 1236.1(c)(9).

8 **FACTUAL BACKGROUND**

9 40. Petitioner is a citizen of Afghanistan, where he was born. He is the father
10 of two children and a husband. Petitioner is 





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45. On or about December 7, 2023, Petitioner came to or near the port of entry at Calexico, CA to seek asylum. Respondents arrested and detained Petitioner. Based on the individualized facts of Petitioner’s case, Respondent DHS released Petitioner from its custody on an Order of Release on Recognizance (“ORR”) pursuant to 8 U.S.C. § 1226(a).

46. The ORR specified that Petitioner must: [1] report for any hearing or interview as directed by the DHS or the Executive Office for Immigration Review; [2] surrender for removal from the United States if so ordered; [3] report in-person as indicated at an unspecified location; [4] refrain from changing his place of residence without first securing written permission from DHS; [5] refrain from violating any local, state, or federal laws or ordinances; [6] assist the Department of Homeland Security in obtaining any necessary travel documents.

47. On or about December 11, 2023, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a. Respondents alleged that Petitioner was inadmissible to the United States under 212 (a)(6)(A)(i) of the INA and commanded that Petitioner appear for a hearing before the Sacramento Immigration Court. Petitioner later requested a change of venue in his proceedings to the Portland Immigration Court, which was ultimately granted.

48. On information and belief, since his release, Petitioner has dutifully complied with all six reporting requirements listed on his ORR. That is, Petitioner has appeared

1 at all his immigration court hearings. Petitioner has not changed his place of residence without
2 first securing written permission from DHS. Petitioner has not violated any local, State, nor
3 federal laws. Moreover, Petitioner has regularly and sufficiently complied with his in-person
4 and remote ICE check-ins

5 49. Petitioner did not attend two check-ins, both for compelling reasons and
6 with subsequent confirmation from ICE after each missed check-in that he remained in
7 compliance with his reporting requirements.

8 50. On July 24, 2025, Petitioner was scheduled simultaneously for both a
9 check-in with ICE and a master calendar hearing before the immigration court. Petitioner, like
10 all respondents in immigration court, was obligated to attend his immigration court hearing to
11 continue with his case and to comply with the conditions of his ORR. Petitioner informed ICE
12 about the conflict in advance of his hearing and was instructed to check-in remotely via his
13 smartphone afterwards. When he was unable to check-in due to technical issues, Petitioner
14 appeared in-person at the Portland ICE field office. An ICE officer deleted and reinstalled the
15 smartphone application used for ICE check-ins to overcome the technical issues. The ICE
16 officer then reassured Petitioner that the incident was resolved, and that his absence would not
17 be considered a missed check-in.

18 51. On September 4, 2025, around two months prior to Petitioner's arrest,
19 Petitioner suffered a medical emergency and was hospitalized. Petitioner experienced a heart
20 arrhythmia, reporting chest pain and a heart rate of up to 200 beats per minute. Due to his
21 hospitalization, Petitioner missed a remote reporting requirement. Petitioner provided ICE with
22 proof of his hospitalization the very next day. In a check-in via video call through the
23 smartphone application, two days after Petitioner's hospital discharge, an ICE agent confirmed

1 receipt of the medical documents and explicitly assured Petitioner that he would not face issues
2 in the future given his reasonable excuse.

3 52. Petitioner timely applied for asylum before the Portland Immigration
4 Court on April 4, 2024.

5 53. On October 2, 2024, Respondents issued work authorization to Petitioner
6 based on his pending asylum application; the authorization is valid through October 1, 2029.

7 54. Petitioner's next immigration court hearing is on December 12, 2025.

8 **Respondents' Detention and Deportation Policies**

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

17 56. In late May, Respondent Secretary Noem and White House Deputy Chief
18 of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per
19 day and reportedly threatening job consequences if officials failed to meet arrest quotas.³

20
21 ³ Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The
22 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),
23 <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

1 57. On May 28, Miller confirmed that “[u]nder President Trump’s leadership,
2 we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President
3 Trump is going to keep pushing to get that number up higher each and every single day.”⁴

4 58. Following the directive from Noem and Miller, ICE agents were
5 instructed in an e-mail to “turn the creativity knob up to 11” and aggressively “push the
6 envelope” in arrests, including by pursuing “collaterals”—individuals who by definition would
7 not have warrants.⁵ As another e-mail put it: “If it involves handcuffs on wrists, it’s probably
8 worth pursuing.”⁶

9 59. The overriding message, communicated by and to Respondents, is that
10 agents and officers carrying out immigration operations on the ground must prioritize arrest
11 numbers, regardless of the law. As one ICE official put it earlier this year, all that matters is
12 “numbers, pure numbers, [q]uantity over quality.”⁷

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16 _____
supercharge immigration arrests, Axios (May 28, 2025), available at
<https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller>.

17 ⁴ 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).

18 ⁵ 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>.

19 ⁶ José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The Guardian
(June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

20 ⁷ 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
21 visited Oct. 15, 2025) (“The Trump administration’s mandate to arrest 3,000 illegal migrants per day is forcing
22 ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn.
23 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.”).

1 **Petitioner's Arrest**

2 60. On information and belief, Petitioner was arrested and re-detained by
3 Respondents on November 12, 2025, despite no material changes in his individual
4 circumstances. Petitioner was arrested in Gresham, Oregon about 100 meters away from his
5 workplace.

6 61. The two masked agents who arrested Petitioner approached his parked
7 vehicle and instructed Petitioner to exit his car. The agents identified themselves as police
8 officers, instructing Petitioners to put his hands behind his back and then handcuffing him.
9 Petitioner fully complied with the officers' demands and did not resist arrest. When Petitioner
10 asked why he was being arrested, one of the officers stated that he did not know why and would
11 have to speak with an immigration judge.

12 62. The officers then moved Petitioner into their vehicle, and Petitioner asked
13 again why he was being arrested. He informed the ICE agents that he had an asylum application
14 pending with the Immigration Court. In response, an ICE agent falsely alleged that the
15 Immigration Court ordered Petitioner to appear at a hearing in August, and that Petitioner did
16 not appear. Petitioner has appeared at all scheduled immigration court appearances and did not
17 have a hearing in August.

18 63. The ICE officers acted without a judicial or administrative warrant. They
19 did not ask Petitioner about his immigration status.

20 64. Later, when Petitioner was in ICE custody at the ICE Portland Field
21 Office, he asked again why he was being arrested. This time, an officer offered a conflicting
22 justification for his arrest, alleging that it was because he had missed an ICE check-in.

23

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Procedural Due Process

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

66. 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*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

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

68. 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.

69. 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.

COUNT TWO

Violation of the Immigration and Nationality Act – Misapplication of Both 8 U.S.C. § 1226(a) and 8 U.S.C. § 1225(b)

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

2 71. Petitioner entered the United States without inspection in December
3 2023. Upon his release on recognizance on December 11, 2023, and the commencement of
4 standard removal proceedings under 8 U.S.C. § 1229a, his custody authority was governed by
5 the post-entry detention framework of 8 U.S.C. §1226(a).

6 72. Section 1226(a) is the default statutory authority for detaining non-
7 citizens “pending a decision on whether the [non-citizen] is to be removed from the United
8 States.” It affords a right to an individualized bond hearing. *Jennings v. Rodriguez*, 583 U.S.
9 281, 287 (2018).

10 73. Respondents’ have violated §1226(a) by detaining Petitioner since his
11 arrest in November without providing him the individualized bond hearing on flight risk and
12 danger that the statute mandates.

13 74. To the extent Respondents purport to detain Petitioner under 8 U.S.C.
14 §1225(b), they have fundamentally misapplied the law. Such statutory construction is contrary
15 to its text, and the Supreme Court’s interpretation in *Jennings*. It has also been squarely rejected
16 by at least one federal district court in a definitive, nationwide class ruling, *Maldonado Bautista*
17 *v. Santacruz*,--- F. Supp 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), *class certification*
18 *order*, 2025 WL 3288403 (C.D. Cal Nov. 25, 2025). Applying §1225(b) to Petitioner is
19 therefore a fundamental legal error rendering his custody unlawful. Under either construction,
20 his detention violates the INA.

21 75. By subjecting Petitioner to detention under either §1226(a), or a
22 misapplied §1225(b), Respondents are violating the INA. Petitioner’s unlawful detention
23 deprives him of his liberty without statutory authority.

COUNT THREE

**Violation of the Administrative Procedure Act
Unlawful Agency Action (5 U.S.C. § 706(2))**

1
2
3 76. Petitioner restates and realleges all paragraphs as if fully set forth here.

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

6 78. An action is an abuse of discretion if the agency “entirely failed to
7 consider an important aspect of the problem, offered an explanation for its decision that runs
8 counter to the evidence before the agency, or is so implausible that it could not be ascribed to a
9 difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of*
10 *Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State*
11 *Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

12 79. The INA provides that Respondents may, as they did months ago in
13 Petitioner’s case, release an individual from custody based on an individualized determination
14 of their danger and flight risk. *See* 8 U.S.C. § 1226(a); *Zadvydas*, 533 U.S. at 690; *Matter of*
15 *Guerra*, 24 I&N Dec. 37 (BIA 2006). After such a release decision is made, a revocation of the
16 custody determination may be made only when warranted by an individual’s specific facts and
17 circumstances. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9).

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

21 81. By categorically revoking Petitioner’s release without consideration of
22 Petitioner’s individualized facts and circumstances, Respondents have violated the INA,
23 implementing regulations, and the APA.

1 82. On information and belief, Respondents have made no finding that
2 Petitioner is a danger to the community.

3 83. On information and belief, Respondents have made no finding that
4 Petitioner is a flight risk.

5 84. Respondents have abused their discretion because, since the agency made
6 its initial custody determination, there have been no changes to Petitioner's facts or
7 circumstances that support the revocation of Petitioner's release from custody.

8 85. Respondents have already considered Petitioner's facts and
9 circumstances and determined that Petitioner was not a flight risk or danger to the community.
10 There have been no changes to the facts that justify this revocation of Petitioner's release on
11 recognizance. The fact that Petitioner has already been granted release by Respondents under
12 the same facts and circumstances shows that Respondents have not considered Petitioner, on an
13 individualized basis, to be a danger to the community or a flight risk.

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

18 87. 8 U.S.C. § 1226(b) authorizes that "[t]he Attorney General at any time
19 may revoke a bond or parole authorized under 8 U.S.C. § 1226(a)" and rearrest a noncitizen
20 under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9)
21 clarifies that such revocations of release from custody may only be carried out in the "discretion
22 of the district director, acting district director, deputy district director, assistant district director
23

1 for investigations, assistant district director for detention and deportation, or officer in charge
2 (except foreign).”

3 88. It is a well-established administrative principle that “agency action taken
4 without lawful authority is at least voidable, if not void *ab initio*.” *L.M.-M. v. Cuccinelli*, 442 F.
5 Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir.
6 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016)
7 (invalidating agency action because it was taken by unauthorized official).

8 89. On information and belief, Respondents have revoked or are revoking
9 Petitioner’s prior custody determination as a result of a categorical policy prepared by and
10 implemented by unidentified government officials in Washington, not through the individual
11 exercise of discretion required by law or by the individuals enumerated by regulation to do so.

12 90. Because Petitioner’s revocation of release from custody has been made or
13 will be categorically directed by government officials not authorized by law to make this
14 determination, Respondents’ detention of Petitioner is not in accordance with law and in excess
15 of statutory authority.

16 PRAYER FOR RELIEF

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

- 18 1. Assume jurisdiction over this matter;
- 19 2. Issue an Order to Show Cause ordering Respondents to show cause why this
20 Petition should not be granted within three days;
- 21 3. Declare that Petitioner’s re-detention without an individualized determination
22 violates the Due Process Clause of the Fifth Amendment (Count One);
- 23 4. Declare that Respondents’ detention of Petitioner under 8 U.S.C. § 1225(b), or

1 their failure to provide an individualized bond hearing under 8 U.S.C. § 1226(a),
2 violates the Immigration and Nationality Act;

3 5. Declare that Respondents' revocation of Petitioner's release was arbitrary,
4 capricious, and an abuse of discretion in violation of the Administrative
5 Procedure Act, 5 U.S.C. § 706(2) (Count Three);

6 6. Issue a Writ of Habeas Corpus ordering Respondents to immediately release
7 Petitioner from custody;

8 7. In the alternative, issue an order compelling Respondents to provide Petitioner a
9 bond hearing under 8 U.S.C. § 1226(a) within seven days of this Court's order;

10 8. Issue an Order prohibiting the Respondents from transferring Petitioner from the
11 district without the court's approval;

12 9. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act,
13 and on any other basis justified under law; and

14 10. Grant any further relief this Court deems just and proper.

15 Dated: December 09, 2025.

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