

Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

HUMBERTO JIMENEZ-PEREZ,

Plaintiff,

v.

PAMELA BONDI, Attorney General of the
United States; KRISTI NOEM, Secretary,
United States Department of Homeland
Security; TODD LYONS, Acting Director for
the U.S. Immigration and Customs
Enforcement; LAURA HERMOSILLO, Acting
Seattle Field Office Director, U.S. Immigrations
and Customs Enforcement; BRUCE SCOTT,
Warden of Immigration Detention Facility; and
the UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Respondent(s).

No. 2:25-cv-02631-JLR

**PETITIONER'S TRAVERSE ON
AMENDED PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28 USC §
2241 AND REQUEST FOR INJUNCTIVE
RELIEF**

Noted for Consideration:
February 11, 2026

I. INTRODUCTION

Federal Respondents' Return on Petitioner Humberto Jimenez-Perez's ("Petitioner") Amended Petition for Writ of Habeas Corpus failed to address his unlawful and unconstitutionally prolonged re-detention under *Zadvydas v. Davis*, 533 U.S. 678 (2001). (*See* Dkt. No. 14). Federal Respondents had the burden to respond with sufficient evidence to rebut Petitioner's showing that there is no significant likelihood of removal in the reasonably foreseeable future. Federal Respondents' failure to substantively respond to and oppose this argument constitutes waiver. On this ground alone, Petitioner respectfully requests an Order for immediate release from the Northwest ICE Processing Center.

PETITIONER'S TRAVERSE ON AMENDED PETITION FOR WRIT
OF HABEAS CORPUS UNDER 28 USC § 2241 AND REQUEST FOR
INJUNCTIVE RELIEF - 1

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1 Federal Respondents similarly failed to address Petitioner's argument that his re-detention
 2 violated his rights guaranteed by 8 C.F.R. § 241.13(i)(3) and the Administrative Procedures Act.
 3 Federal Respondents do not contest that they failed to consider Mr. Jimenez-Perez's individualized
 4 facts and circumstances before re-detaining him. Petitioner respectfully requests this Court to set
 5 aside Federal Respondents' decision to revoke Mr. Jimenez-Perez's conditions of release.

6 Federal Respondents also failed to address Mr. Jimenez-Perez's ongoing serious medical
 7 conditions and the denial of adequate medical care. Specifically, Federal Respondents' return is
 8 silent as to why Mr. Jimenez-Perez still has a colostomy bag that should have been removed in
 9 June 2025. Instead, Federal Defendants attempt to side-step the issue of unreasonable and punitive
 10 confinement conditions by asserting that Petitioner's claim should be pursued via a 42 U.S.C. §
 11 1983 condition of confinements lawsuit. It is squarely within this Court's jurisdiction to address
 12 the ongoing and punitive conditions of confinement suffered by Mr. Jimenez-Perez.

13 Federal Respondents spent the vast majority of their return arguing that Petitioner has not
 14 requested proper injunctive relief to prevent removal to a third country. Each rationale proffered
 15 by Federal Respondents is misplaced and taken in turn.

16 Petitioner respectfully requests an Order for immediate release from the Northwest ICE
 17 Processing Center.

18 II. ARGUMENT

19 A. Federal Respondents Waived Any Opposition to the Request for Release 20 Under *Zadvydas*

21 Petitioner's primary argument for release from the Northwest ICE Processing Center is his
 22 unlawful and unconstitutionally prolonged re-detention under *Zadvydas v. Davis*, 533 U.S. 678
 (2001). Federal Respondents failed to address this claim.

23 In *Zadvydas*, the Supreme Court held that the INA does not authorize "indefinite, perhaps
 24 permanent, detention" of noncitizens subject to final orders of removal. 533 U.S. 678, 699, 121 S.
 25 Ct. 2491, 150 L. Ed. 2d 653 (2001). Applying the doctrine of constitutional avoidance, the
 26 Supreme Court explained that such an interpretation was necessary "to avoid a serious
 27 constitutional threat." *Id.* As the Supreme Court recognized in *Zadvydas*, "[a] statute permitting

1 indefinite detention of [a noncitizen] would raise a serious constitutional problem [under] . . . [t]he
 2 Fifth Amendment's Due Process Clause." *Id.* at 690. "Freedom from imprisonment—from
 3 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty
 4 that Clause protects." *Id.* The Supreme Court concluded that, "once removal is no longer
 5 reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. The
 6 "presumptively reasonable" period for detention following a removal order is six months. *Id.* at
 7 701.

8 In 1998, Petitioner was detained in federal custody for eleven (11) months in Oakdale,
 9 Louisiana after being ordered removed to Switzerland and, if Switzerland was unwilling to accept
 10 him, to Cuba. (*See* Dkt. No. 17-3 at p. 4 (September 1997 arrest and August 1998 release)). On
 11 June 10, 2025, ICE suddenly and without notice re-detained Mr. Jimenez-Perez mere weeks before
 12 his anticipated release from state custody in California and two days before a planned operation to
 13 remove his colostomy bag. (Dkt. No. 9 at ¶¶ 5, 46). At current date, Mr. Jimenez-Perez has been
 14 in custody at the Northwest ICE Processing Center for eight (8) months. Petitioner provides good
 15 reason to believe that there is no significant likelihood of removal in the reasonably foreseeable
 16 future. (*Id.* at ¶¶ 58-71).¹ Petitioner has therefore established that his detention is not presumptively
 17 reasonable. *See Sanchez v. Bondi*, C25-2573-KKE, 2026 U.S. Dist. LEXIS 11159 at *8-9, 2026
 18 WL 160882 (W.D. Wash. Jan. 21, 2026) (finding that Petitioner's detention was not presumptively
 19 reasonable and that Respondents have made no progress towards obtaining a travel document to
 20 Cuba or Mexico).

21
 22
 23 ¹ ICE does not claim to have obtained travel documents nor otherwise secured agreement from the
 24 government of Switzerland to accept Mr. Jimenez-Perez. (*See* Dkt. No. 14 at pp. 5-6). In fact, there
 25 is no evidence that ICE has communicated with Switzerland regarding Mr. Jimenez-Perez at any
 26 time. (*See id.*). There is likewise no indication that ICE has requested or obtained travel documents
 27 from Cuba, secured its agreement to repatriate Mr. Jimenez-Perez, or even communicated with the
 Cuban government about him. (*See id.*; *see generally* Dkt. No. 16). As ICE acknowledges, Mr.
 Jimenez-Perez has communicated that he fears being deported to Switzerland, where he has never
 been and has no ties, and he also fears imprisonment and mistreatment upon return to Cuba. (*See*
 Dkt. No. 16 at ¶16; Jimenez-Perez Declaration at ¶ 4).

1 The burden then shifted to the government to “respond with evidence sufficient to rebut
 2 that showing.” *Zadvydas*, 533 U.S. at 701. Federal Defendants did not respond at all, let alone with
 3 evidence to rebut Petitioner’s showing. Federal Defendants’ failure to oppose this request
 4 constitutes waiver.² *Soleimani v. Larose*, 5-cv-3082-DMS-DEB, 2025 U.S. Dist. LEXIS 230910
 5 at *6-7, 2025 WL 3268412 (S.D. Cal. Nov. 24, 2025) (finding Petitioner’s facts undisputed and
 6 granting his petition due to “Respondents’ answer to the Petition [as] silent” on the claims of
 7 “unlawful search and seizure claim under the Fourth Amendment, an unlawful detention claim
 8 under the APA, and a procedural due process claim under the Fifth Amendment”); *see also*
 9 *Lansdown v. Bayview Loan Servicing, LLC*, No. 22-cv-00763-TSH, 2023 U.S. Dist. LEXIS 64302,
 10 2023 WL 2934932, at *4 (N.D. Cal. Apr. 12, 2023) (quoting *Lansdown v. Bayview Loan Servicing,*
 11 *LLC*, No. 22-cv-00763-TSH, 2023 U.S. Dist. LEXIS 13136, 2023 WL 411348, at *4 (N.D. Cal.
 12 Jan. 25, 2023)) (“[F]ailure to respond in an opposition to an argument constitutes waiver or
 13 abandonment, and thus ‘concedes the argument.’”); *Hernandez v. Noem*, 2026 U.S. Dist. LEXIS
 14 9510 at *2, n.1, 2026 WL 166902 (C.D. Cal. Jan. 16, 2026) (explaining that the Government’s
 15 failure to challenge venue constituted waiver “regardless of any potential venue question that could
 16 have been raised.”); *Resnick v. Hyundai Motor Am., Inc.*, 2017 U.S. Dist. LEXIS 67525, 2017 WL
 17 1531192 at *22 (C.D. Cal. Apr. 13, 2017) (explaining the general civil rule in the context of a
 18 motion to dismiss that “failure to oppose an argument . . . constitutes waiver of that argument.”).

19 Petitioner respectfully requests this Court to consider relief under *Zadvydas* as unopposed,
 20 un rebutted, and conceded on the merits. *See Vu Thanh Tran v. Bondi, et al*, 25-cv-01897-JLR,
 21 2025 U.S. Dist. LEXIS 221487 at * 7-10, 2025 WL 3140462 (W.D. Wash. Nov. 10, 2025) (this
 22

23 ² Deportation Officer Kurtis Reed declared that “[o]n October 17, 2025, Petitioner informed ERO
 24 that he would not sign any papers or help obtain any travel documents until he has surgery.” (Dkt.
 25 No. 16 at ¶18). Based on this statement and in the absence of any evidence of efforts to secure
 26 removal, it appears that Mr. Jimenez-Perez’s removal is conditioned upon his willingness to be
 27 removed. Although in the third country removal context, Judge Evanson addressed similar
 arguments in *Sanchez v. Bondi* that are applicable here. Judge Evanson found that “[s]uch evidence
 casts doubt on Respondents’ ability to remove [Petitioner] to Mexico [as a third country removal]
 in the reasonably foreseeable future.” *Sanchez*, C25-2573-KKE, 2026 U.S. Dist. LEXIS 11159 at
 *9-11 (granting Petitioner’s habeas petition and ordering his immediate release).

1 Court finding that the respondent failed to rebut the petitioner's initial showing). Accordingly,
 2 because Federal Respondents failed to address, let alone disprove, that removal is unforeseeable,
 3 Mr. Jimenez-Perez respectfully requests immediate release from ICE custody. *See Hoac v.*
 4 *Becerra*, No. 2:25-CV-01740-DCJDP, 2025 U.S. Dist. LEXIS 136002, 2025 WL 1993771, at *7
 5 (E.D. Cal. July 16, 2025) (allowing release upon a finding that removal was not reasonably
 6 foreseeable).

7 **B. Federal Respondents Waived Any Opposition to Petitioner's Unlawful Re-**
 8 **Detention Claim**

9 Federal Respondents similarly failed to meaningfully address Petitioner's argument that
 10 his re-detention violated his rights guaranteed by 8 C.F.R. § 241.13(i)(3) and the Administrative
 11 Procedures Act.³ Federal Respondents do not contest that they failed to consider Mr. Jimenez-
 12 Perez's individualized facts and circumstances before re-detaining. (*See generally* Dkt. No. 14).
 13 As set forth above, any argument by Federal Respondents with respect to unlawful re-detention is
 14 therefore waived. Petitioner respectfully requests this Court to set aside DHS's decision to revoke
 15 Mr. Jimenez-Perez's conditions of release. *See Abadin v. Noem*, C25-2411JLR-SKV, 2026 U.S.
 16 Dist. LEXIS 16064 at *8-11 (W.D. Wash. Jan. 28, 2026) (this Court finding that it had jurisdiction
 17 to consider Petitioner's APA claim and finding that Petitioner's re-detention constituted an abuse

18 ³ Federal Respondents make a cursory assertion that Petitioner's arguments as to unlawful re-
 19 detention are rebutted by the declaration of Deportation Officer Reed. (Dkt. No. 14 at 6:13, n.4).
 20 Yet the two brief exchanges referenced in the declaration do not satisfy the regulatory or
 21 procedural due process requirements for revocation of release. 8 C.F.R. § 241.13(i)(3) requires
 22 that the noncitizen be notified of the reasons for revocation of his release; given an opportunity to
 23 respond and present evidence as to the likelihood of removal or failure to comply with conditions
 24 of release; and receive a determination on any contested facts relevant to revocation. Dkt. No. 9 at
 25 ¶¶ 83,84. Procedural due process similarly requires a pre-deprivation hearing on the reasons for
 26 re-detention due to the protectable liberty interest of any noncitizen previously released from ICE
 27 custody on an order of supervision. *Id.* at ¶ 85. Deportation Officer Reed's declaration and I-213
 form (Dkt. No. 17-3) references two dates in which Mr. Jimenez-Perez expressed that he fears
 persecution and torture if removed to Cuba. (*See* Dkt. No. 16 at ¶¶ 15, 16; *see also* Jimenez-Perez
 Declaration at ¶¶ 3-5). Each of these "interviews" was a brief conversations of no more than five
 (5) minutes. (Jimenez-Perez Declaration at ¶¶ 3-5). The exchange on June 10, 2025 is not even
 noted in the I-213, suggesting that it was indeed brief and informal. (*See* Dkt. No. 17-3). There is
 no evidence showing that either interaction involved an explanation of the reasons for re-detention,
 an opportunity to respond, a chance to present evidence on the likelihood of removal, or a
 determination on any contested facts as the regulations and procedural due process require.

1 of DHS's discretion and violated the APA's prohibition on agency that is "not in accordance with
2 the law.").

3 **C. Mr. Jimenez-Perez Continues to Suffer Punitive Detention Conditions and**
4 **Denial of Adequate Medical Care**

5 Federal Respondents claim that Petitioner presents "no evidence whatsoever" to support
6 his punitive punishment and denial of adequate medical care claim. (Dkt. No. 14 at 19:23).
7 Petitioner verified his Amended Habeas Petition (*see* Dkt. No. 9 at 29), that *is* evidence. *Dung Duc*
8 *Luu v. Bowen*, 2025 U.S. Dist. LEXIS 257061 at *11, 2025 WL 3552298 (C.D. Cal. Nov. 24,
9 2025) (proper verification deems the petition as "competent sworn testimony."). Petitioner does
10 not have access to his medical records, and is not provided copies of anything if he does see a
11 provider for his acute medical needs. (Jimenez-Perez Declaration at ¶ 7). Federal Respondents are
12 best positioned to review his file and provide "evidence" of the medical treatment Mr. Jimenez-
13 Perez has received since his arrival at the Northwest ICE Processing Center in June of 2025.
14 Deportation Officer Kurtis Reed's declaration was silent on this issue. (*See* generally Dkt. No. 16).

15 Federal Respondents argued that Petitioner's detention is not punitive because it is
16 reasonably related to legitimate governmental objectives. (Dkt. No. 14 at 19:11-12). This cursory
17 allegation falls short of Mr. Jimenez-Perez's reality. As discussed above, Mr. Jimenez-Perez's
18 eight (8) month detention is unlawful and unconstitutionally prolonged. Moreover, he has been
19 denied adequate medical care since his arrival at the Northwest ICE Processing Center. ICE
20 officers initially told Mr. Jimenez-Perez that his colostomy bag removal surgery would be
21 completed by the end of the month in June 2025. Yet, despite his complaints of pain, stench, and
22 inadequate care, he still has it to this day, in February of 2026. (*See* Dkt No. 9 at ¶ 46; *see also*
23 *Jimenez-Perez Declaration at ¶ 7*). Mr. Jimenez-Perez continues to suffer from the same serious
24 medical needs that he identified in the fall and winter of 2025 that go unremedied. Namely, still
25 having the colostomy bag that causes pain, becoming a Type I diabetic, being relegated to a
26 wheelchair, kidney stones, a hernia, and untimely medication renewal. He now takes nine (9)
27 medications daily. (Jimenez-Perez Declaration at ¶ 8).

1 Most recently, last week on February 12, 2026 or February 13, 2026, Petitioner went to
 2 St. Joe's Hospital after feeling sick, dizzy, and fatigued. He also had bloody noses and high blood
 3 sugar. Once admitted at St. Joe's, he was diagnosed with a stroke. The right side of his face is still
 4 droopy, especially his lip. His hand feels numb at the finger tips. He was also diagnosed with
 5 anemia. (*See id.* at ¶ 9).

6 Due to the punitive and unreasonable conditions at the Northwest ICE Processing Center
 7 and the inability to provide Mr. Jimenez-Perez with proper medical care, Petitioner respectfully
 8 requests his immediate release.

9 **D. Petitioner Satisfied Injunctive Relief Requirements Regarding Punitive**
 10 **Third Country Removal**

11 Federal Respondents' claim that Petitioner has not identified imminent or irreparable harm,
 12 and that "Petitioner's entire argument is premised on what Federal Respondents *may do* as
 13 distinguished from what they have done." (Dkt. No. 14 at 17:13-14) (emphasis in original).

14 Current ICE policy, if applied to Mr. Jimenez-Perez, would violate, *inter alia*, the Fifth
 15 Amendment, the INA, and the Convention Against Torture by depriving him of "meaningful notice
 16 and opportunity to respond to any attempt to remove Petitioner to a third country in reopened
 17 removal proceedings." (Dkt. No. 9 at ¶¶ 72-78). In *Tri Nguyen v. Bondi*, Judge Lin found that these
 18 "unanswered facts presented by Petitioner—in the form of ICE's own policy and past actions—
 19 demonstrate that removal to a third country is an immediate threat and do not inspire confidence
 20 that Respondents can be relied upon to comport with the requirements of due process absent an
 21 order from this Court." *Tri Nguyen v. Bondi*, 2:25-cv-02024-TL, 2025 U.S. Dist. LEXIS 255979
 22 at *27; 2025 WL 3534168 (W.D. Wash. December 10, 2025). In *Thach Wana v. Pamela Bondi*,
 23 Judge Lasnik found that "[w]ith regards to the punitive nature of ICE's current third-country
 24 removal policy, the Court adopts the reasoning set forth in *Nguyen*, 796 F. Supp. 3d at 732-35, and
 25 finds that the government is intentionally removing noncitizens to countries with which they have
 26 no connection, often in contravention of the governing statute and regulations, and knowing that
 27 they will be subject to imprisonment or other punishment." *Thach Wana v. Pamela Bondi*, 2:25-

1 cv-02321-RSL, 2025 U.S. Dist. LEXIS 258932 at *15, 2025 WL 3628634 (W.D. Wash. Dec. 15
2 2025).

3 The same rationale should apply here. Petitioner has recently heard of ICE Officers
4 threatening to remove people to Mexico at the Northwest ICE Processing Center with or without
5 signed papers. (Jimenez-Perez Declaration at ¶ 6). ICE Officers have also spoken to him about
6 removal to Switzerland and Mexico. (*See id.* at ¶¶ 4, 5). Petitioner is subject to an active nationwide
7 policy permitting ICE to unilaterally decide to deport a person to a third country without any notice
8 to the individual whatsoever. (Dkt. No. 9 at ¶¶ 72, 73, 76). The Government has already carried
9 out numerous third country removals without notice or opportunity to contact family or counsel or
10 make any meaningful fear-based claim. (*See id.* at ¶ 78). The Government has not rescinded its
11 third country removal policy, nor has it committed in any binding way to never apply it to
12 Petitioner. *Cf. A.A.R.P. v. Trump*, 605 U.S. 91, 98 (2025) (Government non-binding agreement not
13 to remove petitioners to third country is voluntary cessation that does not moot claim).

14 “[W]hen [harm] under an allegedly unconstitutional statute is not imaginary or wholly
15 speculative a plaintiff need not first expose himself to actual [harm] to be entitled to challenge
16 [the] statute.” *Babbitt v. United Farm Worker Nat. Union*, 442 U.S. 289, 302 (1979) (cleaned up).
17 Here, Petitioner would face irreparable harm from removal to a third country. *A.A.R.P. v. Trump*,
18 605 U.S. 91, 94, 145 S. Ct. 1364, 221 L. Ed. 2d 765 (2025) (detainees with pending habeas
19 petitions facing removal under Alien Enemies Act faced “an imminent threat of severe, irreparable
20 harm”). The harm petitioner seeks to avoid — summary transfer to a third country without notice
21 or meaningful process — cannot be remedied once removal occurs. *Louangmility v. Noem*, No.
22 25-CV-2502-JES-MSB, 2025 WL 2881578 at *4 (S.D. Cal. Oct. 9, 2025) (citation omitted)).

23 Petitioner respectfully seeks an injunction against third country removal, as numerous
24 courts in this district have done in similar cases. *See, e.g., Nguyen v. Scott*, 796 F.Supp.3d 703,
25 739 (W.D. Wash. 2025); *Elshourbagy v. Bondi*, 2025 WL 3718993, at *7-9 (W.D. Wash. Dec. 23,
26 2025); *Nguyen v. Bondi*, 2025 WL 3534168, at *7-10; *Abubaka v. Bondi*, 2025 WL 3204369, at
27 *2 (W.D. Wash. Nov. 17, 2025).

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E. *D.V.D.*'s Class Certification and Stay is Immaterial to Petitioner's Request for Injunctive Relief

Federal Respondents argue that Mr. Jimenez-Perez is not entitled to the preliminary relief granted in *D.V.D. v. U.S. Dep't of Homeland Sec.*, 2025 WL 1453640 at *1 (D. Mass. May 21, 2025) because the class action is currently stayed pending appeal and Petitioner seeks the same relief herein. (*See generally* Dkt. No. 14 at 8:12-11:3). Numerous Courts, including those in the Western District of Washington, have already rejected this argument. *See Arenado-Borges v. Bondi*, 2:25-cv-02193-JNW, 2025 U.S. Dist. LEXIS 263058 at *13-14; 2025 WL 3687518 (W.D. Wash. Dec. 19, 2025) (holding that "numerous courts have rejected the Government's argument, concluding that the Supreme Court's unexplained emergency-docket decision in *D.V.D.* warrants no precedential weight") (collection of cases); *see also Lorenzo v. Bondi*, 2:25-cv-02660-LK, 2026 U.S. Dist. LEXIS 17406 at *19-23 (W.D. Wash. Jan. 29, 2026) (holding that "the emergency docket order in *D.V.D.* does not preclude relief here."). Similar to Petitioners Arenado-Borges and Lorenzo, Mr. Jimenez-Perez does not seek systemic relief but rather individual habeas relief. Petitioner respectfully requests this Court to similarly reject Federal Respondents' argument and find that the order in *D.V.D.* does not preclude Petitioner from seeking individual relief here. *See, e.g., Arenado-Borges*, 2:25-cv-02193-JNW, 2025 U.S. Dist. LEXIS 263058 at *16.

III. CONCLUSION

For the foregoing reasons, Petitioner Humberto Jimenez-Perez respectfully requests that this Court order his immediate release from custody under the protections against unlawful re-detention explained herein and in his Amended Petition for Writ of Habeas Corpus, and to grant Petitioner's prayer for relief A - G. (Dkt No. 9 at 27).

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PETITIONER'S TRAVERSE ON AMENDED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 USC § 2241 AND REQUEST FOR INJUNCTIVE RELIEF - 9

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1 DATED this 11th day of February, 2026. Respectfully submitted,

2 MacDONALD HOAGUE & BAYLESS

3
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12 *I certify that this memorandum contains 3,132*
13 *words, in compliance with the Local Civil Rules.*

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PETITIONER'S TRAVERSE ON AMENDED PETITION FOR WRIT
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CERTIFICATE OF SERVICE

I, Andrew Drake, declare under penalty of perjury under the laws of the United States of America that I caused to be served in the manner noted below a copy of the document entitled Petitioner's Traverse on Amended Petition for Writ of Habeas Corpus under 28 USC §2241 and Request for Injunctive Relief on the following participant(s):

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DATED this 11th day of February, 2026, at Seattle, Washington.

/s/ Andrew Drake
Andrew Drake, Legal Assistant

PETITIONER'S TRAVERSE ON AMENDED PETITION FOR WRIT
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