UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
Tacoma Division

J-A-M- Petitioner, vs. LAURA HERMOSILLO, Seattle Field Office Director, U.S. Immigration and Customs Enforcement and Removal Operation, KRISTI NOEM, Secretary of Homeland Security, PAMELA BONDI, Attorney General, TODD LYONS, Acting Director of Immigration and Customs Enforcement, U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF JUSTICE, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW Respondents	Case No. Agency No. [redacted] PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 ORAL ARGUMENT REQUESTED Expedited hearing requested

In this action against respondents, petitioner alleges as follows:

JURISDICTION AND VENUE

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

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2. 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).

3. In addition, "a federal court always has jurisdiction to determine its own jurisdiction," including its own subject-matter jurisdiction. *Brownback v. King*, 592 U.S. 209, 218-19 (2021) (quoting *United States v. Ruiz*, 536 U.S. 622, 628 (2002)).

4. Unless the assertion of jurisdiction is frivolous, the court has the power to preserve existing conditions while it determines its own authority to grant injunctive relief. See *United States v. United Mine Workers of America*, 330 U.S. 258, 293 (1947). Such an order is valid unless and until overturned, even when the issuing court lacks subject-matter jurisdiction to determine the underlying action's merits. *Id.* at 293-94.

5. This court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1252(e)(2).

6. Venue is proper because petitioner is in Respondents' physical custody in this district in Tacoma.

THE PETITIONER

7. Petitioner is a resident of the state of Oregon but is present in the state of Washington as of the time of filing this petition.

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CUSTODY

8. Under 28 U.S.C. § 2241(c), only persons "in custody" may apply for a writ of habeas corpus. "Custody includes either physical custody or constructive custody, where the person is under a restraint on liberty not shared by the public generally.[1] For example, this includes persons subject to a final order of deportation. *Nakaranurack v. United States*, 68 F.3d 290, 293 (9th Cir. 1995).

9. Petitioner is "in custody" of the respondents because he is now detained by the respondents in their Northwest Detention Center in Tacoma Washington.

MOTION TO PROCEED ANONYMOUSLY

10. Parties may proceed anonymously when special circumstances justify secrecy. *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th Cir. 2000). In the Ninth Circuit, parties may use pseudonyms "in the unusual case when nondisclosure of the party's identity is necessary to protect a person from harassment, injury, ridicule or personal embarrassment." *Id.* at 1067-68 (citation, ellipsis and internal quotes omitted). A party may preserve anonymity in "in special circumstances when the party's need for anonymity outweighs prejudice to the opposing party and the public's interest in knowing the party's identity." *Id.* at 1068.

[1]*Jones v. Cunningham*, 371 U.S. 236, 240, 83 S. Ct. 373, 9 L. Ed. 2D 285 (1963) ("[B]esides physical imprisonment, there are other restraints on a man's liberty, restraints not shared by the public generally, which have been thought sufficient in the English-speaking world to support the issuance of habeas corpus.").

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11. Public identification of petitioner creates a risk of retaliatory physical harm against petitioner because of his present undocumented status in the United States and the nature of his claim is sensitive and highly personal. Further, petitioner alleges below wrong-doing by the Department of Homeland Security and fears that these allegations could lead to retaliation against either himself or against his family.

THE RESPONDENTS

12. Respondent LAURA HERMOSILLO is the Seattle Field Office ("SFO") of Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"). As such she is responsible for local custody decisions for non-citizens charged with being removable from the United States, including their arrest, detention, and custody status. LAURA HERMOSILLO is sued in her official capacity.

13. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Consequently, respondent LAURA HERMOSILLO is the immediate legal custodian of petitioner.

14. Respondent TODD LYONS is the Acting Director of ICE, and as such is responsible for the means by which the immigration laws of the United States are enforced. TODD LYONS is sued in his official capacity.

15. Respondent KRISTI NOEM is the Secretary of Homeland Security. As such she is responsible for the actions of that department, its subagencies, and its officers and personnel. KRISTI NOEM is sued in her official capacity.

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16. Respondent PAMELA BONDI is the Attorney General of the United States, and as such has responsibility for the conduct and operations of the Department of Justice and all of its officers and personnel, including the Executive Office for Immigration Review. PAMELA BONDI is sued in her official capacity.

17. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY ("DHS") is an agency of the United States with responsibility for the enforcement of the nation's immigration laws. It is under the direction of respondent KRISTI NOEM.

18. Respondent U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE") is an agency of DHS under the direction of respondent TODD LYONS

19. Respondent U.S. DEPARTMENT OF JUSTICE is an agency of the United States, and is under the direction of respondent PAMELA BONDI.

20. Respondent EXECUTIVE OFFICE FOR IMMIGRATION REVIEW ("EOIR") is an agency under the authority of respondents U.S. DEPARTMENT OF JUSTICE and ultimately respondent PAMELA BONDI.

21. Respondent EOIR is responsible for adjudication of cases for persons alleged to be subject to removal from the United States. EOIR has two main divisions, the Office of the Immigration Judge, known as immigration court, and the Board of Immigration Appeals. The immigration court conducts trial level hearings and is responsible for determining whether non-citizens may post bond to secure release from the physical custody of respondents.

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HABEAS CORPUS REQUIREMENTS UNDER 28 U.S.C. § 2243

22. Pursuant to 28 U.S.C. § 2243, a court entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

23. The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed. *Id.*

24. The person to whom the writ or order is directed shall make a return certifying the true cause of the detention. When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed. *Id.*

25. Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained. The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts. *Id.*

26. The return and all suggestions made against it may be amended, by leave of court, before or after being filed. The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require. *Id.*

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27. The person to whom the writ or order is directed shall make a return certifying the true cause of the detention. When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed. *Id.*

28. Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained. *Id.*

29. The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts. *Id.*

LEGAL REQUIREMENTS FOR STOPS AND ARRESTS

30. Under 8 U.S.C. § 1226(a), on an administrative warrant ("ICE warrant"), a non-citizen may be arrested and detained pending a decision on whether the person is to be removed from the United States.

31. Except for persons described in section 1226(c), relating to certain criminal or terrorism grounds, ICE may release the person either on a bond of at least $1,500 or on conditional parole.[2] 8 U.S.C. § 1226(a) (1) and (2). ICE may revoke a bond or parole authorized under subsection (a), and rearrest the person under the original warrant, and detain that person. U.S.C. §1226(b).

[2] Here the term "conditional parole" means "release on recognizance." *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111 (9th Cir. 2007).

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32. Under 8 U.S.C. § 1357(a)(2), without an ICE warrant, an ICE officer may make an arrest for civil immigration violations in only two circumstances[3].

33. First, the officer may arrest someone, who, in the view or presence of the officer, is entering or attempting the United States illegally. *Id.*

34. Second, the officer may arrest someone whom the officer has "reason to believe"[4] is in the United States in violation of any immigration law or regulation and who is likely to escape before a warrant can be obtained for arrest. *Id.*[5]

35. 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.

36. Immigration detention is "a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

37. "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).

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[3] Separate provisions permit warrantless arrests in certain circumstances on charges of criminal law violations. 8 U.S.C. § 1357(a)(4)-(5). If that is done, DHS regulations require that the person arrested be advised of their legal rights in a language the person understands and brought without unreasonable delay before a U.S. magistrate. 8 C.F.R. § 287.8(c)(2)(iv) and (v).

[4] 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).

[5] See 8 C.F.R. 287.8(c)(2)(ii) ("A warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained."

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38. 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).

39. The Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. 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.").

40. 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").

41. At the time of a warrantless immigration 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).

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42. 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).

43. Within 48 hours of an immigration arrest (or within a reasonable time in the case of emergency or extraordinary circumstances), an immigration official must make an initial custody determination to decide whether the noncitizen should remain in custody or be released. 8 U.S.C. § 1226(a); 8 C.F.R. § 287.3(d).

THE U-VISA PROGRAM

44. Congress created the U Visa program on October 28, 2000. VICTIMS OF TRAFFICKING AND VIOLENCE PREVENTION ACT OF 2000 ("VTVPA"), Pub. L. No. 106-386, Title V, § 1513, 114 Stat. 1464, 1533 (2000); 8 U.S.C. § 1101(a)(15)(U); INA § 101(a)(15)(U).

45. Congress established the U Visa program in order to "strengthen the ability of law enforcement agencies to detect, investigate, and prosecute" certain serious crimes "while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States." See VTVPA § 1513(a), 114 Stat. 1533.

46. The U Visa program creates a mechanism for noncitizen victims of serious crime to safely engage law enforcement and, likewise, for law enforcement to engage immigrant communities to deter, prevent, and prosecute criminal activity for the betterment of the United States.

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47. The U Visa was created to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protection to victims of such crimes without the immediate risk of being removed from the country.

48. The U Visa encourages victims to work and cooperate with law enforcement agencies. Congress also aimed to strengthen relations between law enforcement and immigrant communities by increasing cooperation and removing some of the fear of deportation held by many undocumented migrants.[6]

49. A noncitizen is eligible for status under the U Visa program if (1) who has suffered substantial physical or mental abuse as a result of having been a victim of one of the enumerated crimes; (2) he possesses or possessed information concerning the criminal activity; (3) he has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting the criminal activity; and (4) the criminal activity violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States. See 8 U.S.C. § 1101(a)(15)(U); INA § 101(a)(15)(U).

[6] See, e.g., U.S. Dep't Homeland Security, U Visa Law Enforcement Resource Guide, https://www.uscis.gov/sites/default/files/document/guides/U_Visa_Law_Enforcement_Resource_Guide.pdf , https://perma.cc/S25P-RTXZ (last visited Sept. 18, 2025).

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50. Certain qualifying family members are eligible for derivative U Visas based on their relationship to the principal petitioner. Where the principal petitioner is at least 21 years of age, their spouse and children are eligible to apply for derivative U nonimmigrant status.[7]

51. The administrative processing to accord U nonimmigrant status to eligible petitioners and derivatives is tightly prescribed and regulated.

52. A petitioner must obtain a certification on agency form I-918B from a law enforcement official that he was the victim of a crime, that the crime is a recognized crime under the U Visa program, and that the petitioner was, is, or is likely to be helpful in the investigation or prosecution of the criminal activity. See 8 C.F.R. § 214.14(a)(12).

53. On submission, USCIS makes a completeness check to verify that all required initial evidence is present. The petition must include Form I-918, Petition for U Nonimmigrant Status; Form I-918, Supplement B, U Nonimmigrant Status Certification Form I-192, Application for Advance Permission to Enter as Nonimmigrant, if there are any inadmissibility issues; a personal statement describing the criminal activity of which the applicant was a victim; and evidence to establish each eligibility requirement.

[7] See USCIS, Victims of Criminal Activity: U Nonimmigrant Status (last reviewed/updated May 16, 2025), available at https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status, https://perma.cc/46F6-S6Y2 (last visited Sept. 18, 2025).

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54. USCIS either adjudicates the petition by granting U-nonimmigrant status or, in most cases, places the petitioner on the waitlist status for an adjudication. See 8 C.F.R. § 214.14(d)(2). A statutory cap limits the grant of U Visas to 10,000 per fiscal year. INA § 214(p)(2)(A). See INA § 214(p)(2)(A); 8 C.F.R. § 214.14(d)(1).

55. The statutory cap only applies to principal applicants and not to derivative applicants. A wait list was created by regulation to provide deferred action to an eligible petitioner whenever the statutory cap is reached within a given fiscal year.[8]

56. Because of the long wait times, USCIS has a bona fide screening process for U-Visa petitioners. Congress granted USCIS the authority to grant work authorization for petitioners with pending, bona fide applications.[9]

57. A bona fide application is an application where there appears to be no instance of fraud in the application, the application is complete, properly filed, contains an LEA endorsement, includes completed fingerprint and background checks, and presents prima facie evidence to show eligibility for U nonimmigrant status.[10]

58. For a qualifying family member to receive a bona fide determination, the principal petitioner must have received a bona fide determination, the qualifying

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[8] See New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status, 72 Fed. Reg. 53014, 53027 (Sept. 29, 1995) (codified at 8 C.F.R. § 214.14(d)(2)).

[9] 8 U.S.C. § 1184(p)(6); INA § 214(p)(6) ("The Secretary may grant work authorization to any [non-citizen] who has a pending, bona fide application for nonimmigrant status under [INA] section 101(a)(15)(U)").

[10] See, e.g., 8 C.F.R. § 214.11(k) (defining "bona fide" for related statutory nonimmigrant program).

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family member's application must be complete, the family member must demonstrate credible evidence of the qualifying family relationship, and the family member must have completed background and security checks.[11]

FACTUAL ALLEGATIONS

59. On January 20, 2025, the president of the United States 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 present administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation.

60. 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.

61. In late May 2025, respondent KRISTI NOEM and White House Deputy Chief of Staff Stephen Miller met with ICE leadership and set an arrest quota of 3,000 per day and reportedly threatened job consequences if officials did not meet quotas.[12]

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[11] See USCIS, National Engagement - U Visa and Bona Fide Determination Process Frequently Asked Questions (last reviewed/updated Oct. 29, 2022), available at https://www.uscis.gov/records/electronic-reading-room/national-engagement-u-visa-and-bona-fide-determination-process-frequently-asked-questions, https://perma.cc/6D2D-4PX8 (last visited Sept. 18, 2025).

[12] 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),

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62. On May 28, 2025, Deputy Chief of Staff 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."[13]

63. Following the directive from Noem and Miller, ICE agents were instructed in an email to "turn the creativity knob up to 11" and aggressively "push the envelope" in arrests, including by pursuing "collaterals." One email is reported to have said: "If it involves handcuffs on wrists, it's probably worth pursuing.".[14]

CIRCUMSTANCES OF PETITIONER'S CASE

64. Petitioner is a long-time resident of Portland, Oregon and a citizen and national of Mexico. He was detained by Immigration and Customs Enforcement near his jobsite in Portland, Oregon on December 7, 2025. Petitioner supports his 19-year-old US citizen daughter, who is currently attending college in California.

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https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigrationreshape-federal-lawenforcement-rcna193494 (last visited Nov 26, 2025); 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 (last visited Nov. 26. 2025).

[13]Hannity, Sean, "Stephen Miller says the admin wants to create the strongest immigration system in US History", FOX NEWS (May 28, 2025), https://www.foxnews.com/video/6373591405112 (last visited Nov. 26, 2025).

[14]Olivares, José , "US immigration officers ordered to arrest more people even without warrants," The Guardian (Jun 4, 2025) https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests

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65. Petitioner is the derivative beneficiary of a U visa petition filed by his spouse on July 15, 2016 (agency receipt number [redacted]). That petition was initial denied by USCIS but was then reopened by the Administrative Appeals Office on August 16, 2022, and remains pending.

66. Petitioner's immigration counsel is Cole Enabnit (OSB 143148) whose office is in Portland, Oregon.

67. Following petitioner's detention, at the request of counsel Cole Enabnit, a petition for writ of habeas corpus was filed with this court on December 12, 2025, by Northwest Immigrants Rights Project (NWIRP) as Case No. 2:25-cv-02560-TMC.

68. On December 17, 2025, an NWIRP attorney Amanda Ng contacted Cole Enabnit to inform him that the US Attorney had provided documents that indicated that there was an expedited removal of the petitioner pursuant to INA § 235(b)(1) and a and subsequent departure in September of 2005.

69. Based on these documents provided by the US Attorney, NWIRP agreed to a motion to dismiss Petitioner's petition before this court without prejudice, and on December 19, 2025, this court granted that order.

70. Cole Enabnit obtained copies of the documents which the US Attorney at provided to NWIRP. These are summarized in the table below:

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TABLE 1: Documents provided to NWIRP by US Attorney during week of 12/15/25			
Form num	**Form Name**	**Form revision date**	**Purported date of document**
I-213	Record of Deportable/Inadmissible Alien	08/01/07	09/28/05
I-860	Notice and Order of Expedited Removal	05/11	09/28/05
I-831	Continuation Page for Form I-860	8/01/07	09/28/05
I-867A	Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act	8/01/07	09/28/05

71. These documents lack sufficient indicia of authenticity. Although purportedly prepared on September 28, 2005, the forms themselves did not come into existence until August 1, 2007, and in one case, May 1, 2011.

72. Form I-867A, Record of Sworn Statement, says on page 1 that the sworn interview was conducted by an officer named Monroe Lynn, but the form I-831 continuation sheets say that the interview was with a different officer. Also, the correct title initials for this person should have been "DO", for "Deportation Officer."

73. Instead, the initials given for the officer's title are "ACC" which stands for "Assistant Chief Counsel." There's a person with the same name as the officer named on the continuation sheets who's now (Dec 22, 2025) working for the Office of DHS Chief Counsel in Portland Oregon as an Assistant Chief Counsel. But that person's duties would not include completion of DHS I-867A to record sworn statements, even assuming that that person was employed as an ACC in 2005.

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74. Contrary to CPB practice, no manual signatures appear on any of the documents furnished to NWIRP. There are other irregularities.

75. Petitioner has committed no crimes or acts that would make him a danger to this community or a priority for detention. Respondents have known of Petitioner's presence in this country for at least 9 years (since the filing of the U visa petition, which contained his address, date of birth, and country of nationality) and have chosen to not detain him.

76. There has been no substantive change in Petitioner's circumstances that would necessitate his detention at this point in time.

CLAIMS FOR RELIEF

COUNT ONE

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

77. Petitioner restates all previous allegations as part of this count.

78. Except at the border and its functional equivalents, the Fourth Amendment prohibits respondents from stopping a person without reasonable suspicion to question as to whether he or she is unlawfully in the United States. The Fourth Amendment bars respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

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

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

80. Respondents' stop of petitioner without reasonable suspicion, and arrest of without probable cause, violates the Fourth Amendment to the U.S. Constitution.

COUNT TWO

Seizure based solely on race

81. Petitioner restates all previous allegations as part of this count.

82. 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 higher standard than reasonable suspicion, race or apparent ethnicity, standing alone, is also necessarily insufficient to form the basis for probable cause.

83. Respondents had no basis to detain Petitioner and inquire about his immigration status other than his race and apparent ethnicity. Likewise, Respondents had no basis to arrest Petitioner other than his race and apparent ethnicity. This was violation of the Fourth Amendment.

COUNT THREE

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

84. Petitioner restates all previous allegations as part of this count.

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85. 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).

86. 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).

87. 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)).

88. Before detaining someone 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." 8 C.F.R. § 287.8(c)(2)(ii)

89. Respondents' stop and detention of Petitioner without reasonable suspicion of a qualifying offense violates the APA and 8 C.F.R. § 287.8(c)(2).

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)(i)
Warrantless Arrest Without Probable Cause of Immigration Violation

90. Petitioner restates all previous allegations as part of this count.

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91. Under the APA a court shall "hold unlawful and set aside 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).

92. By statute, to make a warrantless arrest, an immigration officer must have "reason to believe" the person is in the United States in violation of the immigration laws. 8 U.S.C. § 1357(a)(2). 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).[15]

93. Because respondents arrested petitioner without a warrant, and without reason to believe that he was present in the United States in violation of the immigration laws, the arrest of petitioner was unlawful.

COUNT FIVE

Violation of the Administrative Procedures 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 and Likelihood of Escape

94. Petitioner restates all previous allegations as part of this count.

95. 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

[15] Because criminal penalties may attach to immigration offenses, the Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. U.S. Const. amend V. An immigration officer may not establish probable cause from someone's silence on Fifth Amendment grounds. *Herd v. Terhune*, 619 F.3d 1080,1088 (9th Cir. 2010).

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"likely to escape before a warrant can be obtained for his arrest." 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).

96. 8 C.F.R. § 287.8(c)(2)(ii) requires that before making, an immigration officer must make an individualized determination that an individual is "likely to escape before a warrant can be obtained."

97. Respondents arrested petitioner without making such a determination. This was "final agency action" that was "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2).

COUNT SIX

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Violation of 8 U.S.C. § 1357(a)(2), 8 U.S.C. § 1226(a), 8 C.F.R. § 287.3(d)
Failure to Make a Custody Determination Within 48 Hours

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

99. Following a warrantless arrest, 8 U.S.C. § 1357(a)(2) requires that the individual arrested "shall be taken without unnecessary delay" for further consideration of "their right to enter or remain in the United States".

100. Absent emergency or extraordinary circumstances, 8 C.F.R. § 287.3(d) requires that within 48 hours of a warrantless immigration arrest, an immigration officer must make an individualized custody determination as to whether the

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noncitizen should remain in custody or be released. See 8 U.S.C. § 1226(a) (granting statutory authority to continue detention following an immigration arrest).

101. The custody determination is recorded in the Form I-286, "Notice of Custody Determination." These procedures are essential to protect the arrested person's Fourth Amendment and Fifth Amendment rights.

102. Respondents' continued detention of Petitioner without any individualized custody determination 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).

COUNT SEVEN

Violation of Fourth Amendment to the U.S. Constitution
Failure to Justify Continued Detention

103. Petitioner restates all previous allegations as part of this count.

104. A person who is arrested and placed in immigration detention is constitutionally entitled to a prompt probable cause determination by a neutral officer to justify. their continued detention. *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 824 (9th Cir. 2020).

105. Since his arrest, upon information and belief, no warrant has been issued and no individualized custody determination has occurred purporting to justify his continued detention. See 8 C.F.R. § 287.3(d).

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106. Respondents' continued detention of Petitioner without probable cause to justify his detention violates the Fourth Amendment to the U.S. Constitution.

107. Respondents' continued detention of Petitioner without probable cause to justify his detention violates the Fourth Amendment to the U.S. Constitution.

COUNT EIGHT

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Unlawful Revocation and Disregard of Agency Directive 11005.3

108. Petitioner restates all previous allegations as part of this count.

109. Under the APA, a court shall "hold unlawful and set aside agency action" that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). Courts may provide judicial review of "executive agency action for procedural correctness." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 513 (2009). An agency must provide "reasoned explanation for its action" and "may not depart from a prior policy sub silentio or simply disregard rules that are still on the books." *Id.* at 515.

110. ICE Directive 11005.3 established that "absent exceptional circumstances, ICE will refrain from taking civil immigration enforcement action against known beneficiaries of victim-based immigration benefits and those known to have a pending application for such benefits."

111. ICE Directive 11005.4 purported to replace ICE Directive 11005.3 on January 31, 2025. Directive 11005.4 fails to engage in any manner with the important policy considerations underlying ICE Directive 11005.3.

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112. Respondents' decision to rescind and supersede ICE Directive 11005.3 is arbitrary and capricious, and the rescission cannot be applied to Petitioner.

113. ICE Directive 11005.3 rests on solid policy reasoning, including the strong legal protections laid out by Congress and the need to "encourage noncitizen victims to seek assistance and report crimes committed against them despite their undocumented status," which in turn "strengthens" the possible law enforcement response to criminal activity. See ICE Directive 11005.3(1).

114. ICE Directive 11005.4 provides no "reasoned explanation" for abandoning this strategy. Instead, the Directive cites solely President Trump's Executive Order "Protecting the American People Against Invasion," which states the policy of the United States to achieve the "total and efficient enforcement of [immigration] laws".

115. Because the purported rescission of the directive is arbitrary and capricious, respondents should have applied ICE Directive 11005.3 when considering whether to detain petitioner. To the extent they did not, they violated the APA.

116. Because no exceptional circumstances justified the detention of petitioner, a known pending U-visa applicant, respondents violated agency policy regarding applicants of victim-based immigration benefits.

COUNT NINE

Violation of Fifth Amendment Right to Due Process

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117. The Due Process Clause of the Fifth Amendment prohibits the 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).

118. Due process requires that government action be rational and non-arbitrary. See *United States 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)).//d∂∂∂∂∂dd

119. Petitioner has been stopped, arrested, and detained in arbitrarily, without any notice of the basis for his arrest and continued detention, and not based on a rational and individualized determination of whether he should be detained based on individual facts and circumstances pertaining to whether he was a flight risk or danger to the community.

120. Respondents' stop, arrest, and continued detention of petitioner violates of his due process rights under the Fifth Amendment to the U.S. Constitution.

PRAYER FOR RELIEF

WHEREFORE petitioner prays for relief as follows in that this court:

a. Assume jurisdiction in this matter;

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b. Issue an immediate order barring respondents from removing petitioner from the state of Washington, without notice to the court and approval by the court;

c. Issue an order to show cause why this petition should not be granted within three (3) days.

d. Declare that petitioner's stop and arrest without reasonable suspicion, and petitioner's continued detention, violates applicable regulations, the INA, and the Fourth and Fifth Amendments to the Constitution of the United States.

e. Issue a writ of habeas corpus ordering respondents to release petitioner from custody.

f. Award petitioner reasonable attorneys fees and costs under the Equal Access to Justice Act and any other statute applicable to this matter.

g. Grant any further relief as the court may deem just and proper.

DATED this 24th day of December 2025

/s/ Michael T. Purcell

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed the Petitioner's immigration history with the Petitioner and Petitioner's family members, who spoke to him after his detention regarding the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: December 24th, 2025

/s/ Cole Enabnit

COLE ENABNIT, OSB 143148
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