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8 UNITED STATES DISTRICT COURT FOR THE
9 WESTERN DISTRICT OF WASHINGTON
10 SEATTLE DIVISION

11 MARK STRAZH,

12 Petitioner,

13 v.

14 KRISTI NOEM, Secretary for the Department
15 of Homeland Security; TODD LYONS, Acting
16 Director, Immigration and Customs
17 Enforcement; LAURA HERMOSILLA, Field
18 Office Director, Immigration and Customs
19 Enforcement Seattle Field Office; BRUCE
20 SCOTT, Warden, Northwest ICE Processing
21 Center,

22 Respondents.

Case No. 2:26-cv-00064

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

INTRODUCTION AND FACTUAL ALLEGATIONS

1. This case challenges the unlawful re-detention of the Petitioner, Mr. Mark Strazh. Petitioner is a twenty-two-year-old Russian citizen and is currently held in the Respondents' custody at the Northwest ICE Processing Center in Tacoma, Washington.

2. Petitioner was registered to parole into the United States on September 26, 2023, via the CBP One mobile app under 8 U.S.C. § 1182(d)(5). *See also* 8 C.F.R. § 212.5(a). He was set to enter with his mother, father, and three younger siblings; however, while his family members were paroled into country, Petitioner was held in the custody of Immigration and Customs Enforcement ("ICE") upon his entry (as indicated by the Notice to Appear dated November 7, 2023, ordering him to attend an immigration court hearing at the Otay Mesa Detention Center in San Diego, California). *See* Exh. "A," p. 2. After passing a credible fear interview, Petitioner was released from immigration detention on his own recognizance on January 11, 2024.

3. After his release, Petitioner was notified of certain requirements he must obey. Among them are that he must report for any hearing or interview as directed by ICE or the Executive Office of Immigration Review ("EOIR"), not change his place of residence without first securing written permission from a Supervising ICE Official, enroll and participate in an Alternatives to Detention ("ATD") program as designated by the Department of Homeland Security ("DHS"), and not commit any criminal offenses. Exh. "B" (Order of Release on Recognizance), p. 2, 4. By and large, Petitioner fulfilled these conditions.

4. On April 11, 2024, and August 8, 2024, Petitioner reported for required check-ins with ICE. *Id.* at p. 3. He occasionally missed weekly "photo reports" due to DHS, but not by more than 24 hours. His family settled in Vancouver, Washington, where they filed a timely

1 application for asylum and withholding of removal in the Portland Immigration Court. To the
2 best of counsel's knowledge, Petitioner's case was consolidated on July 2, 2024, with his parents
3 and younger siblings' immigration matter. *See* OCIJ Practice Manual § 4.21(a) (providing
4 guidelines for consolidation).

5 5. The family unit was then scheduled for a hearing on the merits of Form I-589 to
6 occur on October 26, 2026. Exh. "D" (EOIR Automated Information for Petitioner's father,
7 mother, and siblings). Petitioner was marked as being a "part of [Form I-589]." *See* Exh. "C"
8 (Form I-589), p. 4. He was under the age of 21 when this application was filed.

9 6. For the past two years, Petitioner has lived a law-abiding life. He has had no
10 criminal arrests, has not worked without authorization, has checked in with ICE when told, and
11 attended all his immigration court hearings. He has reunited with his family members residing in
12 Vancouver. Petitioner works as a rideshare driver in the Portland metro area, holds a valid
13 driver's license, and maintains a clean record with the Oregon Department of Motor Vehicles.

14 7. Despite the many positive equities in this case, ICE made the decision to arrest
15 Petitioner on the morning December 27, 2025 – ostensibly for spending the night at the home of
16 a friend. That home is also in Vancouver, only 4.3 miles from where Petitioner lived. It is nearly
17 certain that he was tracked through a cell phone issued to him, as a condition of the ICE-ERO
18 ATD program he enrolled in after his release in January of 2024. Petitioner reports that he was
19 going through typical growing pains with his parents and needed space from them. For this
20 reason, he was occasionally staying with a friend who lived nearby – mostly on the weekends –
21 for a period of about four weeks. For all intents and purposes, his primary address remained the
22 one "on file" with ICE.

1 8. Now that he is in custody again, Petitioner's case would necessarily be severed
2 from his family's consolidated matter. This would be critical to his future in the United States, as
3 the main persecutory facts relevant to asylum all revolve around his father. *See* OCIJ Practice
4 Manual § 4.21(b) (providing guidelines for severance). Without being a derivative applicant of
5 his father – which, by law, cannot be accomplished when one family member's case is heard in a
6 detained setting, before a different Immigration Court – his inclusion in that matter is forfeited.
7 Petitioner may potentially experience permanent separation from his family if they are granted
8 asylum in the United States later this year and he is not.

9 9. Making matters more difficult is that Petitioner cannot seek a release through the
10 Tacoma Immigration Court because, as an “arriving alien,” the Court cannot take jurisdiction
11 over any bond proceedings. *See* 8 U.S.C. § 1225(b)(2)(A).

12 10. In sum, the Petitioner was first held in DHS custody for several months, and after
13 due consideration, was released on his own recognizance in January of 2024. From there, he was
14 almost across-the-board compliant with the conditions of his release (and did so as a twenty-
15 year-old man who does not speak English). Even so, the Respondents chose to re-detain him –
16 with no material changes to the facts or circumstances giving rise to the notion that he is a danger
17 to the community or a flight risk – apparently due to the most minor of violations related to his
18 movements for a few weekends. Petitioner thus files this lawsuit to seek an immediate release
19 from ICE detention, as his ongoing custody is in violation of his rights under the federal
20 constitution and those guaranteed by the Administrative Procedure Act (“APA”). The total and
21 substantial deprivation of his liberty, without the slightest consideration for his right to due
22 process, is in clear violation the Fifth Amendment.

11. As this Court has recently held, due process demands a hearing *prior* to the government's decision to terminate a person's liberty. *See, e.g., E.A. T.-B. v. Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-ML (W.D. Wash. Oct. 15, 2025), Dkt. 13; *Y.M.M. v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025). Many other U.S. District Courts have made similar holdings.

23. Accordingly, this Court should grant a petition for a writ of habeas corpus and order the Petitioner's immediate release. *E.A. T.-B.*, 2025 WL 2402130, at *6 (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty"); *Ramirez Tesara*, 2025 WL 2637663, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar); *Ledesma Gonzalez*, 2025 WL 2841574, at *9 (similar); *Y.M.M.*, 2025 WL 3101782, at *2–3 (similar).

PARTIES

24. Petitioner, Mr. Mark Strazh, is a Russian citizen and national presently held at the Northwest ICE Processing Center in Tacoma, Washington.

25. Respondent, Ms. Kristi Noem, is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). Ms. Noem is sued as the cabinet-level

1 secretary responsible for all immigration enforcement in the United States and implements
2 enforcement of the Immigration and Nationality Act ("INA"). She also oversees the operations
3 of Immigration and Customs Enforcement ("ICE").

4 26. Respondent, Mr. Todd Lyons, is sued in his capacity as the Acting Director of
5 ICE, which is tasked with executing all immigration law enforcement in the United States.

6 27. Respondent, Ms. Laura Hermosilla, is sued in her official capacity as the Field
7 Office Director of Seattle's ICE Field Office, which exercises control over the Spokane Field
8 Office. She bears responsibility for the apprehension, detention, and removal of noncitizens
9 within her Field Office's jurisdiction. Ms. Hermosilla is the immediate legal custodian of the
10 Petitioner, for purposes of a federal habeas petition.

11 28. Respondent, Mr. Bruce Scott, is sued in his official capacity as the Warden of the
12 Northwest ICE Processing Center, the privately-operated immigration detention facility where
13 Petitioner is being held in custody. He exercises direct custody over the Petitioner.

14 JURISDICTION

15 29. This action arises under the Constitution of the United States and the Immigration
16 and Nationality Act ("INA"). 8 U.S.C. § 1101 et. seq.; *see also Reno v. Flores*, 507 U.S. 292,
17 306 (1993) (affording immigrants Due Process under the Fifth Amendment).

18 30. The Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
19 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
20 (Suspension Clause).

21 31. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
22 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. §
23 1651.

24 PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 USC § 2241

[Case No. 2:26-cv-00064] - 5

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VENUE

32. Venue is appropriate under because the Petitioner is detained in this judicial district. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

33. Venue is also properly with this Court under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to this petition have occurred in the Western District of Washington.

34. For the same reasons, divisional venue is proper under Local Rule 3-2.

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

35. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . as it [affords] a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

36. Petitioner is “in custody” for the purpose of 8 U.S.C. § 2241 because he is currently held at the Northwest ICE Processing Center. “[T]he Supreme Court has repeatedly held that the in-custody requirement is met where the Government restricts a petitioner’s freedom of action or movement.” *Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), citing *Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); see also, e.g., *Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

LEGAL FRAMEWORK RE: DUE PROCESS

37. Due process requires that if the DHS seeks to re-arrest a person like Petitioner — i.e., a person who was previously released and given an upcoming court date, has lived in the United States without incident, and has otherwise materially complied with the terms of their release — the government must provide a hearing before a neutral decisionmaker to determine whether any re-detention is justified. Typically, re-detention is only justifiable when that person may be considered a flight risk or danger to the community.

38. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the “the most elemental of liberty interests.” *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner had “an exceptionally strong interest in freedom from physical confinement”).

39. Consistent with this principle, those released on parole or other forms of conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

40. Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability to be gainfully employed and live with family, “and its termination inflicts a ‘grievous loss’ on the [released individual] and often on others.” *Id.*

41. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires “adequate procedural protections” that test whether the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

42. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual’s release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the opportunity to be heard . . . at a meaningful time in a meaningful manner”); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring a “preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed a violation of parole conditions” and holding that such determination be made by someone not directly involved in the case).

43. Many courts, including this one, have recognized that such principles apply with respect to the re-detention of noncitizens – especially those the DHS has arbitrarily begun taking back into custody, often after they have been released for months or even years.

44. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976) framework to hold that, even in a case where the government asserted that mandatory detention initially applied, a person’s re-detention could not occur absent a hearing on their custody. The Court reached the same conclusion in *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez*. *See Ramirez Tesara*, 2025 WL 2637663, at *2–3; *Kumar*, 2025 WL 2677089, at *2–3; *Ledesma Gonzalez*, 2025 WL 2841574, at *7–8.

45. In applying the three *Mathews* factors, the *E.A. T.-B.* Court held that the petitioner had “undoubtedly [been] deprive[d] of an established interest in his liberty,” 2025 WL 2402130,

at *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation modified). The Court explained that, even if detention was mandatory, the risk of erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.* at *4–5.

46. Moreover, the *E.A. T.-B.* Court explained that “the Government’s interest in re-detaining non-citizens previously released without a hearing is low: although it would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.” *Id.* at *5. As a result, this Court ordered the petitioner’s immediate release. *Id.* at *6.

47. This Court applied a similar analysis in *Ramirez Tesara*. There, it reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full protections of the due process clause.” 2025 WL 2637663, at *3. When examining the value of additional safeguards, the Court further noted that, despite the government’s allegations of ISAP violations, a belief that it has “a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.” *Id.* at *4 (quoting *E.A. T.-B.*, 2025 WL 2402130, at *4). The Court concluded that any government interest in re-detention without a hearing was “minimal.” *Id.* Once again, the Court ordered the petitioner’s immediate release. *Id.* at *5.

48. The *Kumar* and *Ledesma Gonzalez* courts reached the same decision, holding that all three factors weighed in favor of affording the petitioner a proper hearing on his or her re-detention. 2025 WL 2677089, at *3–4; 2025 WL 2841574, at *7–9; *see also* Report & Recommendation, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt.

13 (same). The decisions in *E.A. T.-B., Ramirez Tesara, Kumar, and Ledesma Gonzalez* are consistent with many other district court decisions addressing similar situations. *See, e.g., Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

CLAIMS FOR RELIEF

COUNT ONE

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

Abuse of Discretion

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

49. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

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

51. 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) (citing *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

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

4 53. By categorically revoking Petitioner’s freedom and bringing him into federal
5 custody, without written notification outlining the reasons for the revocation nor making a
6 consideration of the individualized facts and circumstances, Respondents have violated the APA.

7 54. By continuing to detain Petitioner, Respondents have further abused their
8 discretion as there were no changes to the facts or circumstances since the agency made its initial
9 custody determination which support his current period of administrative custody.

10 55. Respondents previously considered Petitioner’s facts and circumstances and
11 determined that he was neither a flight risk nor a danger to the community. The agency was
12 correct in that assessment; Petitioner did not work without authorization, commit crimes in the
13 United States, and largely fulfilled all requirements set by ICE. The DHS authorized his entry
14 into the United States – without the requirement that he pay a bond – and there have been no
15 changes to the facts that justify the sudden revocation of freedom.

16 **COUNT TWO**

17 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(B)-(D)**
18 **Not in Accordance with Law and in Excess of Statutory Authority**
19 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

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

21 57. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is
22 “contrary to constitutional right,” “in excess of statutory jurisdiction, authority, or limitations,”
23 or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

58. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke . . . parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”

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

60. Respondents have revoked Petitioner’s ability to live freely in the United States because of a categorical policy prepared by and implemented by government officials in Washington D.C., not by the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

61. Respondents’ detention of Petitioner is not in accordance with law and exceeds their statutory authority.

COUNT THREE

Violation of the Fifth Amendment Right to Procedural Due Process

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

63. 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

1 due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the
2 United States, including [non-citizens], whether their presence here is lawful, unlawful,
3 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

4 64. Due process requires that government action be rational and non-arbitrary. *See*
5 *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). While the government has discretion to
6 detain individuals under 8 U.S.C. § 1226(a) and to revoke custodial decisions under 8 U.S.C. §
7 1226(b), this discretion is not “unlimited” and must comport with constitutional due process.
8 *Zadvydas* at 698.

9 65. Although the initial decision to detain or release an individual may be at
10 government's discretion, “the government's decision to release an individual from custody
11 creates ‘an implicit promise,’ upon which that individual may rely, that their liberty ‘will be
12 revoked only if [they] fail to live up to the ... conditions [of release].’” *Pinchi v. Noem*, 792 F.
13 Supp. 3d 1025, 1032 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Thus, even when
14 ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after
15 that person is released from custody, they have a protected liberty interest in remaining out of
16 custody. *Id.* (citing *Romero v. Kaiser*, No. 22-cv-20508, 2022 WL 1443250 (N.D. Cal. May 6,
17 2022)) (emphasis added).

18 61. The Due Process Clause generally “requires some kind of a hearing before the
19 State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). For
20 cases involving re-detention, the guiding authority on the process stems from *Mathews, supra*.
21 Under *Mathews*, a reviewing court must consider “(1) the private interest that will be affected by
22 the official action, (2) the risk of an erroneous deprivation of that interest through the procedures
23 used, and the probable value, if any, of additional or substitute procedural safeguards, and (3) the

1 Government's interest, including the function involved and the fiscal and administrative burdens
2 that an additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 325.

3 62. Given the facts and arguments outlined above, we predict that all Mathews factors
4 in this case will weigh heavily in Petitioner's favor (e.g., he has serious private interest in his
5 liberty, there was a severe lack of individualized review by the DHS, and nearly no changes in
6 material circumstances since his initial release). There is simply no reason for his continued
7 detention.

8 63. The revocation of Petitioner's ability to live freely in the United States was done
9 in an arbitrary and incoherent manner and was not based on a rational and individualized
10 determination of whether he is a safety or flight risk. This constitutes a violation of due process.

11
12 **COUNT FOUR**

13 **Violation of the Fifth Amendment Right to Counsel**

14 64. Upon information and belief, the Department of Homeland Security may intend to
15 move Petitioner to a remote facility far from Tacoma. Counsel can attest that many other
16 detainees have been moved in this manner, which makes communication with counsel extremely
17 difficult.

18 65. The constitutional right to counsel includes the ability to communicate effectively
19 with one's attorney and to prepare a defense. 8 U.S.C. § 1362; *Usubakunov v. Gonzales*, 16 F.4th
20 1299, 1304-1305 (9th Cir. 2021); *Gomez-Velazco v. Sessions*, 879 F.3d 989, 993 (9th Cir. 2018).

21 66. The Ninth Circuit has found that transferring detainees to remote locations
22 without notifying their attorney or providing access to legal representation is a violation of the
23

1 right to counsel. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565-66 (9th Cir. 1990); *see*
2 *also Innovation Law Lab v. Nielsen*, 342 F.Supp.3d 1067, 1080 (D. Or. 2018).

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner respectfully requests this Court to:

- 6 1) Assume jurisdiction over this matter;
- 7 2) Issue an Order to Show Cause ordering Respondents to demonstrate why this Petition
- 8 should not be granted within three days;
- 9 3) Declare that Petitioner's detention without an individualized determination violates
- 10 the Due Process Clause of the Fifth Amendment;
- 11 4) Declare that Petitioner's re-detention was made in violation of statute and regulation;
- 12 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
- 13 custody;
- 14 6) Issue an Order prohibiting the Respondents from transferring Petitioner outside the
- 15 district without 48 hours' advance notice to the undersigned and the Court;
- 16 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
- 17 on any other basis justified under law; and
- 18 8) Grant any further relief this Court deems just and proper.
- 19
- 20
- 21
- 22
- 23

Respectfully submitted,

Dated: January 7th, 2025

s/ Benjamin Cornell
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Attorney for Petitioner

VERIFICATION OF PETITIONER

On behalf of Mark Strazh, the party in custody, I verify the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief and having reviewed the relevant records and pleadings. Mr. Strazh has not verified the petition himself as he is currently held in ICE custody.

Dated: January 7th, 2025

s/ Benjamin Cornell
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CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

US Attorneys
Email: usawaw.habeas@usdoj.gov

Dated: January 7th, 2025

s/ Benjamin Cornell
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