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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland Division

B-P-, an adult,

Petitioner,

v.

JULIO HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and PAMELA BONDI, Attorney General of the United States,

Respondents.

Case No. 3:26-cv-450

Agency No. [redacted]

PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. Petitioner B-P- is a stateless person who fled Laos as a refugee. He immigrated to the United States in approximately 1983, when he was just seven years old.

2. For eleven years, Petitioner has been subject to a removal order that the United States never enforced. After an immigration judge ordered his removal on January 6, 2015, Petitioner B-P- was detained by U.S. Immigration and Customs Enforcement ("ICE") until his release on an order of supervision because his actual removal was not reasonably foreseeable.

3. Although Petitioner has cooperated with Respondent ICE in efforts to secure a travel document, ICE has not had and does not have a travel document for Petitioner and, upon information and belief, no travel document has been issued to or for him that would permit his removal him to Laos. Petitioner's removal is not significantly likely to occur in the reasonably foreseeable future.

4. Since his release from ICE custody in approximately 2015, Petitioner B-P- has duly and substantially complied with his Order of Supervision and his required ICE reporting appointments and ICE has never indicated or raised any question of non-compliance.

5. Pursuant to the terms of his Order of Supervision, Petitioner's must report to ICE on Tuesday, March 10, 2026.

6. Upon information and belief, when Petitioner reports on March 10, Respondents intend to revoke the Order of Supervision and detain in physical custody and transfer him to the Northwest ICE Processing Center in Tacoma, Washington, not because of any violation of the terms of release, but because Respondents have undertaken a campaign to detain Laotian nationals in Oregon and Washington.

7. But revocation would be unlawful without a valid reason and providing Petitioner a meaningful opportunity to be heard prior to revocation. Without a travel document, Petitioner's removal to Laos is not reasonably foreseeable. Moreover, under Respondents' recent policies, Petitioner is at risk of removal not only to Laos, where his family fled as refugees, but to an unknown third country where he could face indefinite imprisonment or other harm.

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

JURISDICTION

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

10. 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).

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

VENUE

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

13. Divisional venue is proper under Local Rule 3-2 because Petitioner resides in Portland, he reports to ICE, as required, in Portland, and a substantial part of the events or omissions giving rise to his claims occurred in this District.

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

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

16. Petitioner is "in custody" for the purpose of § 2241 because he has been released by Respondents on an Order of Supervision and remains in their constructive custody. "[T]he Supreme Court has repeatedly held that the in-custody requirement [of 28 U.S.C. § 2241] is met where the Government restricts a petitioner's freedom of action or movement," including through an immigration order of supervision. *See 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).

PARTIES

17. Petitioner is fifty years old and was born in Laos. Petitioner is a resident of Portland, Oregon, and is present within the state of Oregon as of the time of the filing of this petition.[1]

18. Respondent Julio Hernandez is the Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations ("ICE"). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Respondent Hernandez is a legal custodian of Petitioner.

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

20. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS.[2] Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

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[1] Petitioner seeks leave to proceed anonymously because public identification creates a risk of retaliatory physical harm due to Petitioner's status as an immigrant in the United States, and the nature of Petitioner's claim is sensitive and highly personal. *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). The Ninth Circuit has identified several different situations in which parties have been permitted to proceed under a fictitious name, including "(1) when identification creates a risk of retaliatory physical or mental harm, . . . ; (2) when anonymity is necessary 'to preserve privacy in a matter of sensitive and highly personal nature,' . . . ; and (3) when the anonymous party is 'compelled to admit [his or her] intention to engage in illegal conduct, thereby risking criminal prosecution.'" *Id.* (collecting cases; internal citations omitted). On the filing of this petition, the undersigned will promptly transmit the name and A# of the Petitioner to the Respondents.

[2] On March 5, 2026, several media outlets reported that President Trump had removed Noem from her position and would nominate Senator Markwayne Mullin to replace her. *See* Zolan Kanno-Youngs & Hamed Aleaziz, *Bulletproof Vests and Rolex Watches: The Rise and Fall of Kristi*

21. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

22. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

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

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

LEGAL FRAMEWORK

25. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are a danger to the community or unlikely to appear for immigration court. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

26. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

27. Individuals with prior removal orders can be detained during the removal period but may be released from detention and confinement. 8 U.S.C. § 1231.

28. Individuals detained under 8 U.S.C. §1231(a)(3) may be released, subject to terms of an order of supervision ("OSUP").

Noem, N.Y. Times, Mar. 5, 2026, https://www.nytimes.com/2026/03/05/us/politics/kristi-noem-dhs-timeline.html.
As of the time of this filing, it is if Noem has actually been removed from her post, and if so, who is the Acting Secretary. Regardless, the Secretary is sued in their official capacity.

29. For an individual released on an OSUP, revocation and return to custody is authorized upon following certain processes and an exercise of discretion by certain authorized officials making individualized findings. 8 C.F.R. § 241.4(l).

30. If a change of circumstances has made it such that the government believes there is a "significant likelihood" that the noncitizen "may be removed in the reasonably foreseeable future," the custody review procedures must again be applied. *Id.*

31. If an authorized official seeks to revoke release on an OSUP, the noncitizen must promptly be notified of the reasons for revocation of release and be afforded an initial informal interview to respond to the reasons for revocation. 8 C.F.R. § 241.4(l). The revoking official may only exercise his or her discretion after a particularized finding is made. *Id.*

FACTUAL BACKGROUND

Petitioner's Arrival and Early Life

32. Petitioner was born in 1975 in Laos. That same year, the Communist party Path Lao took over, abolishing the U.S.- backed monarchy. The new government went on to track down and punish anyone who opposed Communism or who had assisted the United States in the war. Petitioner's family was at risk of significant harm in Laos because of the Communist takeover of the country; his father opposed Communism and had served in the prior government's military, forcing the entire family to flee.

33. Petitioner's father fled first and was granted refugee status, and eventually lawful permanent residence, in the United States. Around 1979, Petitioner, his mother, and siblings fled Laos to a refugee camp in Thailand, where they lived for several years. Petitioner's mother died in the refugee camp when Petitioner was only about five years old.

34. Petitioner was admitted to the United States in 1983 as a lawful permanent resident based on a petition filed by his father. The family lived in New Jersey until a move to Oregon in 1985 to be closer to the Laotian community. Petitioner grew up in the Sellwood neighborhood of Portland, where he attended Llewellyn Elementary School, Sellwood Middle School, and Cleveland High School.

35. Petitioner struggled as a teenager, was kicked out of high school, and became involved in a gang. In 1995, he was convicted of robbery and sentenced to two years in prison. Shortly after his release, in 1998, his father died.

36. On March 31, 1998, Petitioner shot someone while committing a robbery. On November 23, 1998, he pled guilty to attempted aggravated murder, robbery in the second degree, and attempted assault in the first degree. He was sentenced to 16 years and three months imprisonment.

37. Prison changed Petitioner's life. He was moved into a housing unit known as the "honor pod" for prisoners who maintained good behavior. Petitioner obtained his GED and took college classes in business and management through the University of Oregon's Inside Out program. His U.S. citizen daughter, who was born after his arrest, visited him regularly during his incarceration. He completed his sentence on November 28, 2014, when he was transferred to ICE custody.

Petitioner's Order of Removal and Release from Custody

38. Petitioner was ordered removed on January 6, 2015, by an immigration judge in Tacoma, Washington.

39. Upon information and belief, ICE released him from immigration custody on an Order of Supervision after several months because they could not deport him to Laos.

40. Since his release on supervision in 2015, Petitioner has diligently and substantially complied with all the terms of his release, including by regularly reporting to ICE.

41. Petitioner is not a citizen or national of Laos, or of any country. According to Lao nationality law, he forfeited Laoitian nationality, to the extent he ever acquired it from his parents, when he migrated to another country and resided in that country for more than seven years.[3]

42. Because he is not a citizen of Laos or any other country and therefore has no travel documents authorizing his international travel, Petitioner has lived his life under an indefinite order of supervision because his removal could not be effectuated at any reasonably foreseeable time. With that understanding, he has built a productive and law-abiding life in his community in Oregon.

43. Petitioner owns a small business laying fiberoptic cables; he has contracts with large, multinational corporations and has several subcontractors. He lives with his brother, sister, and brother-in-law, who are all U.S. citizens. Petitioner provides significant economic, emotional, and caregiver support to his family members; in particular, to his brother, who is on disability, has post-traumatic stress disorder, and suffers from panic attacks. He regularly attends a church in his neighborhood and enjoys a close relationship with his U.S. citizen daughter.

44. Petitioner has not been arrested for or convicted of any crimes since his 1998 conviction; he received a single speeding ticket in 2023.

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[3] *See* Chapter 3, Art. 17(3) and Art. 20, Law on Lao Nationality, Lao People's Democratic Republic, *available at* https://www.luangprabang-laos.com/IMG/pdf/lao_laws_11_law_on_lao_nationality.pdf.

45. In 2025, Petitioner was granted post-conviction release for his crimes under ORS § 137.225; the Multnomah County District Attorney's office did not oppose the motion to set aside his conviction.

46. Upon information and belief, Respondents have recently begun to arrest and detain refugees of Laotian heritage at without notice during otherwise routine ICE reporting appointments or in the community.

47. Upon information and belief, Respondents plan to revoke his Order of Supervision and re-detain Petitioner at his March 10, 2026 check-in. This re-detention will violate procedural and substantive due process because the revocation of his supervised release requires notice and a meaningful opportunity to be heard, and because it is unconstitutionally punitive and his removal is not reasonably foreseeable, *Zadvydas*, 533 at 689. Petitioner's re-detention would also violate ICE's own regulations governing the revocation of release of supervision, 8 C.F.R. § 241.13(i).

Respondents' Detention and Deportation Policies

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

49. In late May, Respondent Secretary Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per day and reportedly threatening job consequences if officials failed to meet arrest quotas.[4]

50. On May 28, Miller confirmed that "[u]nder President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day."[5]

51. The overriding message, communicated by and to Respondents, is that agents and officers carrying out immigration operations must prioritize arrest numbers, regardless of the law.

Repatriation to Laos History

52. No repatriation agreement exists between Laos and the United States.

53. According to the United States government, "Laos has historically failed to accept back its removable nationals."[6] According to ICE's Fiscal Year Annual Reports, not a single person was deported to Laos in FY 2024, and only was deported in FY 2023,.[7] In FY 2013, ten

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[4] Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The Wall Street Journal (June 9, 2025), https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877; Julia Ainsley, et al., *A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement*, NBC News (June 4, 2025), https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494; Brittany Gibson & Stef W. Kight, Scoop: Stephen Miller, Noem tell ICE to supercharge immigration arrests, Axios (May 28, 2025), available at https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller.

[5] Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US History*, FOX NEWS (May 28, 2025), available at https://www.foxnews.com/video/6373591405112 (last visited Aug. 24, 2025).

[6] President Donald Trump, Proclamation: *Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National security and Public Safety Threats*, June 4, 2025, https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/.

[7] Numbers in prior years were also very low: five in FY 2022, zero in FY 2021, eleven in FY 2020, and five in FY 2019. U.S. Immigration and Customs Enforcement, U.S. Dep't of Homeland Sec., *Annual Report Fiscal Year 2024* (2024), https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf.

people were deported to Laos, and in 2012, fourteen were deported. There are an estimated nearly 5,000 individuals in the United States with removal orders to Laos that the U.S. government has been unable to execute.

54. In June 2025, the U.S. placed a partial travel ban on Laos and cut off visas for certain Laotian individuals, citing visa overstays and failure to cooperate with U.S. deportation efforts.

55. In response, the Laos government slowly began issuing travel documents to permit the removal of some individuals ordered removed to Laos. Upon information and belief, the document issued is a "laissez-passer", valid for only 90 days, that allows a single entry to the country but does not restore any citizenship or residency rights.

56. Upon information and belief, since October 2025, there has been about one ICE deportation flight per month that stops in Laos. Laos restricts the number of people it will receive at one time. Upon arrival, the government of Laos forcibly confines all U.S. deportees on a Laos military base for a mandatory period and only releases them if they have a sponsor in Laos, such as a family member, able to house and support them. U.S. deportees are treated as stateless persons under Laos nationality law because they are considered to have forfeited their Laos nationality, to the extent they ever acquired it.

57. Upon information and belief, ICE is currently detaining hundreds of individuals with old removal orders to Laos, having re-detained them in recent months.

58. Upon information and belief, Laos is limiting the number of individuals it accepts each month because of their policy of mandatorily detaining people on arrival and managing their movement once in the country. Thus, there are likely far too many individuals with removal

orders to Laos detained at this time to be removed in the reasonably foreseeable future given the limitations on the numbers that can be removed per month.

59. On December 16, 2025, President Trump upgraded the partial travel ban it had already imposed on Laos to a full travel ban because of Laos' "fail[ure] to accept back its removable nationals."[8] Laos was one of two countries (the other being Sierra Leone) for whom the U.S. government upgraded its sanctions to a full ban.[9]

60. In short, President Trump declared by Presidential proclamation that removal to Laos was not significantly likely in the reasonably foreseeable future. Rather, the Government concluded that effectuating removals to Laos is still so unlikely that Laos deserved enhanced and extreme sanctions.

ICE's Third Country Removal Policy

61. On July 9, 2025 ICE released a memo instructing staff that ICE may deport a person to a third country not designated on the removal order without providing any notice or an opportunity to be heard if the State Department confirms that it has received diplomatic assurances that individuals will not be persecuted or tortured. *Third Country Removals Following the Supreme Court's Order in Department of Homeland Security v. D.V.D., No. 24A1153 (U.S. June 23, 2025)*, July 9, 2025, *available at*

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[8] Fact Sheet: President Donald J. Trump Further Restricts and Limits the Entry of Foreign Nationals to Protect the Security of the United States, The White House, Dec. 16, 2025, https://www.whitehouse.gov/fact-sheets/2025/12/fact-sheet-president-donald-j-trump-further-restricts-and-limits-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/; President Donald J. Trump, Proclamation: Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States, Dec. 16, 2025, https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/.

[9] Fact Sheet: President Donald J. Trump Further Restricts and Limits the Entry of Foreign Nationals to Protect the Security of the United States, The White House, Dec. 16, 2025, https://www.whitehouse.gov/fact-sheets/2025/12/fact-sheet-president-donald-j-trump-further-restricts-and-limits-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/.

https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.190.1.pdf. There is no mention of assurances that a person will not be arbitrarily or indefinitely imprisoned, however. *Id.*

62. If no diplomatic assurances are received, officers are instructed to serve on the individual a Notice of Removal ("Notice") that includes the intended country of removal. *Id.* It tells officers not to ask whether the individual is afraid of removal to that country and states that officers should "generally wait at least 24 hours following service of the [Notice] before effectuating removal." *Id.* The memo states that "[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more hours after service of the [Notice] as long as the [noncitizen] is provided reasonable means and opportunity to speak with an attorney prior to removal." *Id.*

63. The memo states that if the noncitizen "does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the [Notice] within 24 hours, [ICE] may proceed with removal to the country identified on the notice." If the noncitizen "does affirmatively state a fear if removed to the country of removal," then ICE will refer the case to U.S. Citizenship and Immigration Services ("USCIS") to screen for eligibility for withholding of removal and protection under the Convention Against Torture ("CAT"). *Id.* (emphases in original). "USCIS will generally screen within 24 hours." *Id.* If USCIS determines that the noncitizen does not meet the standard, the individual will be removed, but if it determines that they have met the standard, then ICE may reopen removal proceedings "for the sole purpose of determining eligibility for [withholding of removal protection] and CAT … [or] designate another country for removal." *Id.*

64. This policy has been the subject of ongoing litigation. On February 25, 2026, the district court of Massachusetts granted summary judgment, final judgment, and declaratory relief to a nationwide class of persons with final removal orders, setting aside the third-country removal policy. *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 25-10676-BEM, 2026 WL 521557, at *44 (D. Mass. Feb. 25, 2026). The order is currently stayed. *Id.*

Punitive Banishment to Third Countries

65. Since January 2025, Respondents have implemented a policy and practice of removing individuals to third countries, without first following the procedures in the INA for designation and removal to a third country and without providing fair notice and an opportunity to contest the removal in immigration court.

66. Respondents reportedly have negotiated with at least 58 countries to accept deportees from other nations. On June 25, 2025, the *New York Times* reported that seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees who are not their own citizens.[10] Since then, ICE has carried out highly publicized third country deportations to South Sudan, Eswatini, Rwanda, Uganda, and Ghana.

67. The Administration's third country removal scheme is designed to punish and deter. In an official video, President Donald Trump stated, "[I]f illegal aliens choose to remain in America, they're remaining illegally, and they will face severe consequences," such as "significant jail time, … garnishment of all wages, imprisonment and incarceration, and *sudden deportation in a place and manner solely of our discretion.*"[11] In January, President Trump announced a plan to detain immigrants at the Guantanamo Bay Prison in Cuba because "it's a tough place to get out" and "we don't want them coming back."[12]

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[10] Edward Wong et al, *Inside the Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25, 2025.
[11] Roll Call, *Donald Trump Vlog: Self-Deportation Program - May 9, 2025*, at 00:00:55 (emphasis added), https://rollcall.com/factbase/trump/transcript/donald-trump-vlog-self-deportation-program-may-9-2025/ (last visited July 24, 2025).
[12] Benedict Garman & Matt Murphy, *Migrant Tents Removed From Guantanamo Bay, Satellite Images Show*, BBC News (Apr. 17, 2025), https://www.bbc.com/news/articles/crm3x27vw70o.

68. Later, Secretary of State Marco Rubio announced that El Salvador had agreed to "accept for deportation any illegal alien in the [U.S.] who is a criminal"[13] with the explicit understanding that "[President Bukele] will put them in his jails."[14] Respondent DHS Secretary Kristi Noem said, "It has been wonderful for us to be able to have somewhere to send the worst of the worst and someone to partner with. And we'd like to continue that partnership because it's been *a powerful message of consequences*."[15] President Trump recently spoke about the deterrent effect of the El Salvador banishments: "[W]e bring people there and … they don't get out."[16] DHS agreed, posting, "Illegal aliens are turning back because they know … they will ultimately leave in handcuffs."[17]

69. In April, Secretary of State Rubio stated that the administration is "working with other countries … to send [them] some of the most despicable human beings … and the further away from America, the better, so they can't come back."[18] Secretary Noem has publicly threatened noncitizens with criminal convictions to "leave America" or "be fined nearly $1,000

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[13] Stefano Pozzebon et al, *El Salvador Offers to House Violent US Criminals and Deportees of any Nationality in Unprecedented Deal*, CNN World (Feb. 4, 2025), https://www.cnn.com/2025/02/03/americas/el-salvador-migrant-deal-marco-rubio-intl-hnk.
[14] Matthew Lee, *Rubio Says El Salvador Offers to Accept Deportees from US of Any Nationality, Including Americans*, AP News (Feb. 4, 2025). https://apnews.com/article/migration-rubio-panama-colombia-venezuela-237f06b7d4bdd9ff1396baf9c45a2c0b.
[15] Roll Call, *Remarks: Donald Trump Holds a Bilateral Meeting with Nayib Bukele of El Salvador - April 14, 2025*, at 00:06:45 (emphasis added), https://rollcall.com/factbase/trump/transcript/donald-trump-remarks-bilat-nayib-bukele-el-salvador-april-14-2025/ (last visited July 24, 2025).
[16] Roll Call, White House Press Conference: *Press Conference: Donald Trump Hosts a Press Conference at the White House - June 27, 2025*, at 00:20:29, https://rollcall.com/factbase/trump/transcript/donald-trump-press-conference-white-house-june-27-2025/ (last visited July 24, 2025).
[17] Homeland Security (@DHSgov), X (June 24, 2025, at 4:17 PM), https://x.com/DHSgov/status/1937651350059327520.
[18] Kate Bartlett, *Trump Administration Plans to Deport Migrants to Libya*, NPR (May 7, 2025), https://www.npr.org/2025/05/07/nx-s1-5389739/libya-immigration-crackdown-trump-deportations.

per day, imprisoned, and deported."[19] She stated, "President Trump and I have a clear message to those in our country illegally: LEAVE NOW. If you do not self-deport, we will hunt you down, arrest you, and deport you."[20]

70. The Administration has negotiated with countries to have U.S. deportees imprisoned in prisons, camps, or other facilities. In February 2025, Panama and Costa Rica took in hundreds of deportees from African and Central Asian countries and imprisoned them in hotels, a jungle camp, and a detention center.[21] In Panama, officials confiscated cell phones, denying deportees access to their attorneys.[22] Deportees were "guarded like prisoners," sleeping in structures made from plastic sheets and having toilet access only when escorted.[23]

71. In March 2025, the U.S. paid El Salvador $5 million to indefinitely imprison over 200 deported Venezuelans in a maximum-security prison notorious for gross human rights

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[19] Press Release, Dep't of Homeland Sec., *DHS Releases New Nationwide and International Ads Warning Illegal Aliens to Self-Deport and Stay Out* (Apr. 21, 2025), https://www.dhs.gov/news/2025/04/21/dhs-releases-new-nationwide-and-international-ads-warning-illegal-aliens-self.

[20] *Id.* (italics omitted).

[21] The Associated Press, *Migrants Expelled from U.S. to Costa Rica, Panama in a Legal 'Black Hole,'* CBC News (Feb. 28, 2025, 6:29 AM), https://www.cbc.ca/news/world/costa-rica-panama-us-migrants-1.7471142; Juan Zamorano, *Nearly 300 Deportees from US held in Panama Hotel as Officials Try to Return Them to Their Countries*, AP World News (Feb. 18, 2025), https://apnews.com/article/panama-trump-migrants-darien-d841c33a215c172b8f99d0aeb43b0455; Manuel Rueda, *Asylum Seekers Deported by the U.S. Are Stuck in Panama and Unable to Return Home*, All Things Considered, NPR (May 5, 2025), https://www.npr.org/2025/05/05/nx-s1-5369572/asylum-seekers-deported-by-the-u-s-are-stuck-in-panama-unable-to-return-home.

[22] Julie Turkewitz et al, *Migrants, Deported to Panama Under Trump Plan, Detained in Remote Jungle Camp*, N.Y. Times (Feb. 19, 2025), https://www.nytimes.com/2025/02/19/world/americas/us-migrants-panama-jungle-camp.html?login=smartlock&auth=login-smartlock.

[23] Matias Delacroix & Megan Janetsky, *Isolated in 'Harsh Conditions:' Deportee from US Details Legal Limbo in Panama Camp Near Darien Gap*, AP World News (Feb. 22, 2025), https://apnews.com/article/panama-deportees-trump-hotel-darien-gap-iom-bba8c3dc33fd38efd569a5b51e481a86.

abuses, known as CECOT.[24] El Salvador's justice minister stated that the only way out of CECOT is in a coffin.[25]

72. In May 2025, ICE attempted to deport individuals from Vietnam, Laos, the Philippines, and Mexico to Libya.[26] The aircraft sat on the runway for hours until the individuals were returned to a detention center after a court ordered the men not to be deported.[27]

73. On July 4, 2025, ICE deported eight men, including one Laotian man, to South Sudan.[28] The government of South Sudan euphemistically said in a statement that the deportees were "under the care of the relevant authorities."[29] As of September 7, 2025, six of the eight men remained in South Sudanese custody.[30]

74. On July 15, 2025 ICE deported five men to Eswatini, including one Laotian man. DHS referred to the men as "so uniquely barbaric that their home countries refused to take them back."[31] Eswatini government officials have said the men are imprisoned in solitary confinement

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[24] *See, e.g.*, Wong, *supra* note 1; Michael Rios, *What We Know About the El Salvador 'Mega Prison' Where Trump Is Sending Alleged Venezuelan Gang Members*, CNN (Mar. 17, 2025).
[25] Cecilia Vega, *U.S. Sent 238 Migrants to Salvadoran Mega-Prison; Documents Indicate Most Have No Apparent Criminal Records*, CBS News (Apr. 6, 2025), https://www.cbsnews.com/news/what-records-show-about-migrants-sent-to-salvadoran-prison-60-minutes-transcript/.
[26] Human Rights Watch, *U.S.: Don't Forcibly Transfer Migrants to Libya*, May 9, 2025, https://www.hrw.org/news/2025/05/09/us-dont-forcibly-transfer-migrants-libya.
[27] *Id.*
[28] Guardian, *US Judge Clears Path for Eight Immigrants to be Deported to South Sudan*, July 4, 2025, https://www.theguardian.com/us-news/2025/jul/04/south-sudan-deportations-halted.
[29] Mattathias Schwartz, *Trump Administration Poised to Ramp Up Deportations to Distant Countries*, N.Y. Times, July 13, 2025, https://www.nytimes.com/2025/07/13/us/politics/south-sudan-third-country-deportations.html; *see also* Press Statement, Republic of South Sudan, *Official Statement on the Arrival of Third-Country Nationals and South Sudanese Deported from the United States of America to South Sudan*, July 8, 2025, https://mofaic.gov.ss/official-statement-on-the-arrival-of-third-country-nationals-and-south-sudanese-deported-from-the-united-states-of-america-to-south-sudan/.
[30] Isa Cardona, *South Sudan repatriates Mexican man deported from US*, CNN, Sept. 7, 2025, https://www.cnn.com/2025/09/06/americas/mexican-south-sudan-returns-latam-intl.
[31] Tricia McLaughlin (@TriciaOhio), X (July 15, 2025), https://x.com/TriciaOhio/status/1945274627976200206.

and that the U.S. is paying for the costs of their imprisonment.[32] An Eswatini government official estimated the men would be held for about 12 months.[33]

75. In mid-August 2025, ICE deported seven individuals to Rwanda.[34] Rwanda also reported reaching an agreement with the United States to receive up to 250 deportees.[35]

76. In September 2025, ICE deported as many as 28 individuals to Ghana, at least 14 of whom had won protection against removal in immigration court. In court filings, five of these individuals alleged that ICE abruptly put them on a plane in the middle of the night, straightjacketed them, and did not tell them where they were being flown until they were already in flight. *D.A. v. Noem*, 800 F. Supp. 3d 43, 45 (D.D.C. 2025). In Ghana, they were held in an open-air detention facility surrounded by armed military guards. *Id.* Now, Ghana has reportedly expelled eight to ten of these individuals to Togo without their passports.[36]

77. A United States Senate Foreign Relations Committee, Minority Report, from February 2026, "At What Cost? Inside the Trump Administration's Secret Deportation Deals," examines the costly and transactional role that third country removals is playing in U.S. foreign policy, with the U.S. government making "questionable deals" with "corrupt and unstable foreign governments" without any transparency or oversight, including around the treatment of

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[32] Nimi Princewill et al., *'Not Trump's Dumping Ground': Outrage Over Arrival of Foreign US Deportees in Tiny African Nation*, CNN World (July 18, 2025), https://www.cnn.com/2025/07/17/africa/africa-eswatini-trump-us-deportees-intl; Rachel Savage et al., *Eswatini opposition attacks US deal as 'human trafficking disguised as deportation,'* The Guardian, Jul. 23, 2025, https://www.theguardian.com/world/2025/jul/23/eswatini-petition-us-deportees.

[33] Savage et al., *supra* note 29.

[34] Daphne Psaledakis et al., *Rwanda received migrants deported from US earlier this month*, Reuters, Aug. 28, 2025, https://www.reuters.com/world/africa/rwanda-received-migrants-deported-us-earlier-this-month-2025-08-28/.

[35] *Id.*

[36] *West Africans deported from US to Ghana 'dumped without documents in Togo,'* The Guardian, Sept. 29, 2025, https://www.theguardian.com/us-news/2025/sep/29/west-africans-deported-us-ice-ghana-togo.

deportees.[37] The report concludes that "[d]eportation is being used as a bargaining chip. U.S. diplomacy is being conducted through secret case payments and quiet concessions. . . speed and deterrence are being prioritized over due process and respect for human rights."[38]

CLAIMS FOR RELIEF

COUNT ONE
Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and Nationality Act, and Federal Regulations
Not in Accordance with Law, In Excess of Statutory Authority, Abuse of Discretion
Unlawful Detention

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

79. 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).

80. 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)).

81. The INA provides that Respondents may, as they did in Petitioner's case, release an individual, who is subject to a removal order, to supervision if appropriate or statutorily

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[37] U.S. Committee on Foreign Relations, Minority, U.S. Senate, *At What Cost? Inside the Trump Administration's Secret Deportation Deals*, at 1 (Feb. 13, 2026), https://www.foreign.senate.gov/imo/media/doc/(FINAL%20-%20web)%20At%20What%20Cost%20-%20Inside%20the%20Trump%20Administration%27s%20Secret%20Deportation%20Deals_SFRC%20Minority%20Report_Feb%202.pdf.

[38] *Id.* at 2.

required. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.4(a). Any person released under such circumstances "shall be released pursuant to an order of supervision." 8 C.F.R. § 241.5(a).

82. Specified ICE officials may revoke supervised release "in the exercise of discretion," but this requires formal processes and findings. 8 C.F.R. § 241.4(l)(1)-(2).

83. The language of 8 C.F.R. § 241.4(l) specifically limits the power of anyone who is not the Executive Associate Director to revoke release. For example, it provides that "[a] district director may also revoke release of a [noncitizen] when"—and only when—"in the district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director]." Thus, before a district director can revoke release, the district director must make certain findings.

84. A noncitizen's release may be revoked "in the exercise of discretion" when, in the opinion of the revoking official, "[t]he purposes of release have been served," the noncitizen "violates any condition of release;" revocation "is appropriate to en-force a removal order or to commence removal proceedings against [the noncitizen]," or "[t]he conduct of the [noncitizen], or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2).

85. The language of 8 C.F.R. § 241.4(l)(1) also requires that upon revocation of release, a noncitizen "will be notified of the reasons for revocation" of release and "be afforded an initial informal interview promptly after his or her return to [ ] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification."

86. On information and belief, Petitioner complied with all of the conditions of his release on an OSUP; indeed, he has been reporting to ICE as directed for years. No facts or

circumstances changed for Petitioner that would alter Respondents' assessment of his risk of flight or his danger to the community.

87. Petitioner has no criminal history since being released from detention on an OSUP in 2015. Though ICE has requested that he obtain travel documents to facilitate his own removal and he has cooperated with these requests, it has been, and remains, futile and impossible for him to obtain such documents because Laos does not consider him to be a Laotian citizen.

88. Regardless of Petitioner's prior removal order, Respondents' imminent plan to terminate Petitioner's supervised release and detain him without following proper procedures will violate the INA and federal regulations. *See Doua Yang v. Scott*, No. 2:26-cv-00469-JNW, ECF 22 at # (W.D. Wa. Mar. 6, 2026) (granting release as a remedy for failure to follow the OSUP revocation of release procedures); *M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 WL 2430267 at *9-*12 (Aug. 21, 2025) (granting habeas after finding ICE violated 8 C.F.R. § 241.4(l) when the wrong official revoked release and provided neither timely notice nor an informal interview); *Ceesay v. Kurzdor-fer*, No. 25-CV-267-LJV, 2025 WL 1284720, at *17 (W.D.N.Y. May 2, 2025) (ICE violated 8 C.F.R. § 241.4(l) by not affording petitioner an informal interview or an opportunity to respond to the reasons for revocation); *Torres-Jurado v. Biden*, No. 19 CIV. 3595 (AT), 2023 WL 7130898, at *2 (S.D.N.Y. Oct. 29, 2023) (noting that notwithstanding ICE's discretion to execute a removal order, ICE "cannot remove" a noncitizen—even one subject to a final removal order—"in any manner [it] please[s]"); *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993) ("[W]hen a regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute, and [the government] fails to adhere to it, the challenged deportation proceeding is invalid and a remand to the agency is required"—even in the absence of a showing of prejudice.).

89. Respondents' conduct is not in accordance with law and is in excess of statutory authority in violation of the APA.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

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

91. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

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

93. While the government may detain individuals under 8 U.S.C. § 1231(a) and revoke custody decisions under 8 C.F.R. § 241.4(l), this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

94. Here, Respondents have chosen to revoke Petitioner's release in an arbitrary manner and without the formal processes and findings required by statute and regulation, in violation of due process.

95. Because no individualized determination for revocation has been made and because Petitioner has not been afforded an opportunity to respond to the reasons for revocation,

Respondents' anticipated revocation of Petitioner's release will violate his right to procedural due process.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
Substantive Due Process

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

97. Civil immigration detention violates substantive due process if it is not reasonably related to its statutory purpose. *See id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). "In the context of immigration, a period of detention must 'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Gamez Lira v. Noem*, 2025 WL 2581710, at *2 (D.N.M. Sept. 9, 2025)) (*quoting Demore v. Kim*, 538 U.S. 510, 516-17 (2003)); *see also Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (similar).

98. The purposes of post-order detention under 8 U.S.C. § 1231 are to ensure an individual's presence for imminent removal and, secondarily, to prevent danger to the community. *See Zadvydas*, 533 U.S. at 690, 697.

99. First, Petitioner's detention is not reasonably related to the primary statutory purpose of ensuring presence for imminent removal. *Id.* ICE has had over eleven years to effectuate Petitioner's removal. During that time, upon information and belief, neither Respondents nor Petitioner have been able to secure travel documents to facilitate Petitioner's removal. There is no significant likelihood of his removal in the reasonably foreseeable future. Nor have any other facts or circumstances changed for Petitioner that would change Respondents' assessment of his risk of flight. To the contrary, since his release in 2015, Petitioner has lived in Portland and built a life while complying diligently with the requirements set by ICE.

100. Second, no facts or circumstances have changed since Petitioner's release on OSUP that would change Respondents' dangerousness assessment. *See Zadvydas*, 533 U.S. at 691.

101. Petitioner's re-detention would be unrelated to the purposes justifying civil immigration detention as a constitutional matter and contravenes the Substantive Due Process protections of the Fifth Amendment.

COUNT FOUR
Violation of Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture Implementing Regulations, and the Administrative Procedures Act
Third Country Removal

102. The allegations in the above paragraphs are realleged and incorporated herein.

103. The Fifth Amendment, the INA, the Convention Against Torture, and implementing regulations require that Respondents provide Petitioner with meaningful notice and opportunity to respond to any attempt to remove him to a third country not designated in his order of removal. They also require an opportunity for Petitioner to make a fear-based claim against removal to a third country in reopened removal proceedings. Respondents' third-country removal policy violates the law and Petitioner's rights by allowing ICE agents to remove individuals to third countries that have provided diplomatic assurances without any notice or process at all. Where a country has not provided diplomatic assurances, the policy requires only gravely insufficient notice and opportunity to respond, in violation of the statute, regulations, and Fifth Amendment.

104. Prior to being detained for removal to any third country, Petitioner must be provided with constitutionally and statutorily compliant notice and an opportunity to respond and contest that removal if he has a fear of persecution or torture in that country in reopened removal

proceedings. *See D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 25-10676-BEM, 2026 WL 521557, at *44 (D. Mass. Feb. 25, 2026) (order currently stayed).

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

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

(3) Declare that Petitioner's re-detention without an individualized determination violates the INA and the Due Process Clause of the Fifth Amendment;

(4) Enjoin Respondents from detaining Petitioner at his upcoming report date with ICE;

(5) Enjoin Respondents from detaining Petitioner at any other time without reasonable advance notice, a hearing before a neutral decisionmaker, and a showing that detention is necessary to secure his imminent removal;

(6) Enjoin Respondents from detaining Petitioner for removal or seeking to remove Petitioner to a third country without notice and meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings;

(7) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(8) Order parties to proceed in this action maintaining Petitioner's anonymity, using only B-P- as their name, and redacting or removing all personally identifying information;

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

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

Dated: March 9, 2026.

/s/ Jordan Cunnings

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