

Nicholas Costa
Attorney at Law
PO Box 4245
Portland, OR 97208
(503) 427-8243
nicholas@passage.law

Counsel for petitioner.

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

A.M.P.,	)	File No. 3:26-cv-599
	)	
	)	
Petitioner,	)	Agency No.
	)	
vs.	)	XXXX-XXX-116
	)	
LAURA HERMOSILLO, Acting Field Office	)	PETITION FOR HABEAS
Director, Seattle Field Office Director, U.S.	)	CORPUS
Immigration and Customs Enforcement and	)	
Removal Operation, MARKWAYNE	)	ORAL ARGUMENT
MULLIN, Secretary of Homeland Security,	)	REQUESTED
PAMELA BONDI, Attorney General, TODD	)	
LYONS, Acting Director of Immigration and	)	Expedited hearing requested
Customs Enforcement, U.S. DEPARTMENT	)	
OF HOMELAND SECURITY, U.S.	)	
IMMIGRATION AND CUSTOMS	)	
ENFORCEMENT, and U.S. DEPARTMENT	)	
OF JUSTICE	)	

Respondents.

For his complaint 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.

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. To give a court a reasonable opportunity to determine whether it has subject-matter jurisdiction and whether venue is proper in a district, and if so to consider the validity of a habeas petition, a court may order the preservation of the status quo. See *United States v. United Mine Workers of Am.*, 330 U.S. 258, 293 (1947) ("[T]he District Court ha[s] the power to preserve existing conditions while it ... determine[s] its own authority to grant injunctive relief," unless the assertion of jurisdiction is frivolous.).

5. Venue is proper because petitioner is now in custody in Oregon and because a substantial part of the events giving rise to his claims occurred in this district. 28 U.S.C. § 1391(e). For these same reasons, divisional venue is proper under Local Rule 3.2(b).

THE PETITIONER

PETITION FOR HABEAS CORPUS

6. Petitioner is a resident of the state of Oregon, and he is in the state of Oregon as of the time of filing this petition. Petitioner is a citizen of **Mexico**.

CUSTODY

7. Petitioner was arrested by agents of the respondents on **[date]**, at about **[time]** and is in their actual physical custody at the time of the filing of this petition.

PROCEEDING ANONYMOUSLY

8. Petitioner seeks leave to proceed anonymously because public identification creates a risk of retaliatory physical harm risk due to his status as potential asylum seeker in the United States, and the nature of his claim is sensitive and highly personal. See *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000).

9. Petitioner will provide his name to respondents under seal or other appropriate means of communication under the circumstances of this case.

RESPONDENTS

10. Respondent LAURA HERMOSILLO Acting 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 noncitizens.

11. The Seattle Field Office’s area of responsibility includes Alaska, Oregon, and Washington. Consequently, respondent LAURA HERMOSILLO is the immediate legal

custodian of Petitioner.

12. Respondent MARKWAYNE MULLIN is the Secretary of Homeland Security and is responsible for the actions of that department, its subagencies, officers and personnel.

13. Respondent PAMELA BONDI is the Attorney General of the United States and 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.

14. Respondent TODD LYONS is the Acting Director of ICE, and responsible for the means by which the immigration laws of the United States are enforced.

15. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY 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.

16. Respondent U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT is an agency of respondent U.S. DEPARTMENT OF HOMELAND SECURITY and is under the direction of respondent TODD LYONS.

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

18. All individual defendants are sued in their official capacities.

FIRST CLAIM FOR RELIEF

VIOLATION OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION -

UNLAWFUL DETENTION WITHOUT DUE PROCESS

19. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Petition as if fully set forth herein.

20. The Petitioner, A.M.P., is a long-term resident whose deep familial ties and clear path to permanent residency present compelling grounds for relief from removal. Having resided in the United States continuously since approximately 1986, A.M.P. has nearly 40 years of equity in this country. A.M.P. is a grandfathered individual for adjustment of status, stemming from a meritorious petition filed by his father in February 1998. Currently, he has a pathway to immediate lawful permanent residence through an approved petition filed by his over-21 U.S. citizen daughter, which was approved on September 15, 2023. Because a visa is immediately available, he has already paid the required \$2,440.00 in filing and penalty fees to the government to pursue this relief.

21. While A.M.P. has a criminal record, a comprehensive breakdown demonstrates that he is not a danger to the community and remains eligible for relief. His history is primarily characterized by numerous dismissed charges and minor misdemeanors. His 2025 convictions for aggravated harassment were reduced from felonies to Class A misdemeanors and involve conduct that does not rise to the level of a crime involving moral turpitude. Furthermore, even if his recent convictions were deemed turpitudinous, he remains eligible for a discretionary waiver through his Lawful Permanent Resident father. His aggregate sentence to confinement across his entire life totals only 71 days, which falls far below the threshold that would trigger specific grounds of inadmissibility.

22. The removal of A.M.P. would result in extreme hardship to his family, including his U.S. citizen children and his elderly Lawful Permanent Resident father. His life in the United States is marked by decades of residence and evidence of rehabilitation, factors that should be evaluated in a non-adversarial adjustment of status adjudication rather than through a rushed custodial transfer. Despite his clear eligibility for permanent residency and his low risk to the community, Respondents—acting through the Department of Homeland Security and Immigration and Customs Enforcement—detained Petitioner on March 27, 2026. This detention occurred despite A.M.P. having already initiated the process to resolve his status through the proper administrative channels and complying with all court instructions regarding his pending applications.

23. The Immigration and Nationality Act (INA) § 236, 8 U.S.C. § 1226, as interpreted by the Supreme Court and Ninth Circuit, limits the government's authority to detain noncitizens without adequate procedural safeguards. Petitioner's detention is unauthorized because Petitioner is not subject to a final order of removal, and thus may only be detained under § 1226(a), which requires a prompt bond hearing before a neutral decisionmaker.

24. By continuing to detain Petitioner without a timely and meaningful custody redetermination hearing, Respondents have violated Petitioner's rights to substantive and procedural due process under the Fifth Amendment to the U.S. Constitution.

25. Petitioner's ongoing detention also frustrates the purpose of the INA and

interferes with the exercise of statutory rights to seek asylum and related protection, in violation of 8 U.S.C. § 1158(a)(1) and applicable regulations, including 8 C.F.R. § 208.3(a).

26. Accordingly, Petitioner is entitled to a writ of habeas corpus ordering Respondents to release Petitioner immediately or, in the alternative, to provide a prompt individualized bond hearing before an Immigration Judge at which the Petitioner bears the burden of proving he is not a flight risk or danger to the community.

SECOND CLAIM FOR RELIEF

THIRD COUNTRY REMOVAL VIOLATES DUE PROCESS

27. With certain exceptions not applicable here, an alien in removal proceedings may designate the country of removal. 8 U.S.C. § 1231(b)(2)(A)(i). In general, the Attorney General is required to remove the alien to the country designated by the alien. 8 U.S.C. § 1231(b)(2)(A)(ii).

28. If removal to the country designated is not possible, the statute permits removal to alternative countries which meet one of six specified categories. 8 U.S.C. § 1231(b)(2)(E)(i) through (vi).

29. If it is “impracticable, inadvisable, or impossible to remove the alien” to one of these six categories of countries, then removal may be to “another country whose government will accept the alien into that country.” 8 U.S.C. § 1231(b)(2)(E).

30. Regardless of whether an alien can be found to be removable to any country under 8 U.S.C. § 1231(b)(2), the Attorney General may not remove an alien to a country if the

Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A). These are called “protected grounds.” There are five exceptions that permit removal even in the face of threatened harm on protected grounds. See 8 U.S.C. § 1231(b)(3)(B)(i) through (v).

31.The determination of whether the petitioner would face a threat to his life or liberty on a protected ground in any particular country of removal is a matter to be taken up in the immigration court. But due process requires petitioner to be given a reasonable opportunity to present this case to an immigration court. See *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019).

32.On January 20, 2025, the president signed an Executive Order, entitled Securing our Borders, which instructed the Secretary of State, Attorney General, and DHS Secretary to “take all appropriate action to facilitate additional international cooperation and agreements, . . ., including [safe third country agreements] or any other applicable provision of law.” Exec. Order No. 14165, 90 Fed. Reg. 8467, 8468 (Jan. 20, 2025).

33.On or about February 18, 2025, ICE directed officers to review cases for third country deportations and take back into custody persons previously released, including people granted withholding of removal or CAT protection.¹

34.On March 5, 2025, the New York Times reported: “[ICE leadership] are

¹Nick Miroff and Maria Sacchetti, Trump Seeks to Fast-Track Deportations of Hundreds of Thousands, The Washington Post (Feb. 28, 2025). For text of directive, see Ted Hesson and Kristina Cooke, Trump Weighs Revoking Legal Status of Ukrainians as US Steps Up Deportations, Reuters (Mar. 6, 2025).

considering deporting people who have been found to have a legitimate fear of torture in their home countries to third nations[.]”²

35.Plaintiffs have a due process right to meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports a person to a third country. *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Plaintiffs also have a due process right to implementation of a process or procedure to afford these protections. See *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 491 (1991).

36.To comport with due process, notice of removal to a third country must be given sufficiently in advance of the deportation, in a language the person understands, and provide a stay of removal for enough time to permit the filing of a motion to reopen removal proceedings to allow a meaningful opportunity to present a fear-based claim related to that country. *Andriasian*, 180 F.3d at 1041; *Aden*, 409 F. Supp. 3d at 1009.

37.Respondents have not provided meaningful notice and opportunity to contest a third country removal. Consequently, petitioner's detention is unlawful, and a writ of habeas corpus should issue.

38.Wherefore petitioner prays for relief as follows in that this court:

- a. Assume jurisdiction over this matter.
- b. Order Respondents to show cause within three days why this petition should not be granted.

²Hamed Aleaziz and Zolan Kanno-Youngs, Frustration Grows Inside the White House Over Pace of Deportations, N.Y. Times (Mar. 5, 2025).

- c. Bar respondents from removing petitioner from the District of Oregon absent further order of this court.
- d. Issue a Writ of Habeas Corpus ordering Petitioner's release from custody.
- e. Award Petitioner his attorney's fees and costs; and
- f. Grant any other relief that the Court deems just and proper.

Dated this 27th day of March 2026,

/s/ Nicholas Costa
OSB #130939
Attorney for petitioner