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5 **UNITED STATES DISTRICT COURT**
6 **WESTERN DISTRICT OF WASHINGTON**
7 **SEATTLE, WASHINGTON**

8 Reynaldo ORTIZ BARAJAS
9 *Petitioner,*

10 v.

11 Todd BLANCHE, Acting Attorney
12 General of the United States in his
13 official capacity;
14 U.S. DEPARTMENT OF HOMELAND
SECURITY;
15 Markwayne MULLIN, Secretary of the
16 U.S. Department of Homeland Security
in his official capacity;
17 Todd LYONS, Acting Director of U.S.
18 Immigration and Customs Enforcement
in his official capacity;
19 Laura HERMOSILLA, Director of the
20 Seattle Field Office of Immigration and
21 Customs Enforcement (ICE)'s
22 Enforcement and Removal Operations
(ERO) in her official capacity;
23 *Respondents.*

Case No.: 26-1161

A 

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

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3 1. In 1991, Petitioner Reynaldo Ortiz Barajas fled violence in Mexico and
4 came to the United States seeking safety and protection. He had a fear of
5 returning to Mexico after [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 [REDACTED] Though Immigration Judge Frank M. Travieso at
9 the Tacoma Immigration Court found the Petitioner credible, his petition was
10 denied. Petitioner was ordered removed on June 15, 2020. Petitioner appealed to
11 the Board of Immigration Appeals, but his appeal was dismissed on November
12 16, 2020. Petitioner appealed to the United State Court of Appeals for the Ninth
13 Circuit. Petitioner moved for a voluntary dismissal on February 21, 2021, and the
14 Ninth Circuit granted Petitioner's motion on March 2, 2021.
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18 2. [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 [REDACTED] Petitioner assisted the Vancouver Police
22 Department with their investigation and cooperated with the District Attorney's
23 Office during the prosecution of the two individuals responsible for his son's
24 murder. On April 16, 2020, our office assisted Petitioner with filing his I-918,
25 Petition for U Nonimmigrant Status, with the United States Citizenship and
26 Immigration Services (USCIS). USCIS issued a bona fide determination on
27
28 Petitioner's I-918 petition on November 2, 2022. However, USCIS could not

1 grant Petitioner a visa since the statutory cap for U-1 nonimmigrant status visas
2 had been reached. Petitioner was placed on a waitlist for a U-1 visa and was
3 granted deferred action. Petitioner plans to file a Motion to Reopen and
4 Terminate his Removal proceedings with the Tacoma Immigration Court based
5 on his U-1 visa once his visa is issued.
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8 3. Respondents now seek to detain Mr. Ortiz Barajas, transfer him away from
9 the district of his family and community, and deport him. Respondents do so
10 based not on his circumstances or facts, but on Respondents' interpretation of
11 President Trump's whim. It is unlawful to detain and deport Mr. Ortiz Barajas
12 without providing him with the due process of law.
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15 4. This is an action for a writ of habeas corpus under 28 U.S.C. § 2241 to
16 remedy the unlawful detention of Petitioner Reynaldo Ortiz Barajas. He is
17 currently in U.S. Immigration and Customs Enforcement (ICE) constructive
18 custody for habeas corpus purposes pursuant to a final order of deportation. *See*
19 *Nakaranurack v. United States*, 68 F.3d 290 (9th Cir. 1995). Petitioner asks this
20 Court to find that Respondents' attempts to detain, transfer, and deport him are
21 arbitrary and capricious and in violation of the law, and to issue an order
22 preventing his detention, transfer out of the district, and deportation.
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JURISDICTION

5. Petitioner Reynaldo Ortiz Barajas is in constructive custody of Respondents and ICE, an agency within the Department of Homeland Security (“DHS”). He is currently subject to a final order of deportation issued on June 15, 2020.

6. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas corpus); U.S. Const. art. I, § 2; (Suspension Clause); and 5 U.S.C. § 702 (Administrative Procedure Act).

7. 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, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

8. Nothing in the Immigration and Nationality Act (INA) deprives this Court of Jurisdiction, including 8 U.S.C. §§1252(b)(9), 1252(f)(1), or 1226(e). Congress has expressly preserved judicial review of challenges to prolonged immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-841 (2018) (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar judicial review of such challenges).

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VENUE

9. Venue is proper because Petitioner resides within this judicial district, where he is subject to Respondents' final removal order and therefore is in their constructive custody. Venue is further proper because a substantial part of the events or omissions giving rise to his claims occurred in this District, where Petitioner received his final removal order.

THE PETITIONER

10. Petitioner Reynaldo Ortiz Barajas is a resident of the state of Washington, and present in the state of Washington as of the time of filing of this petition.

CUSTODY

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

12. Petitioner Reynaldo ORTIZ BARAJAS is "in custody" of the Respondents because he is currently subject to a final order of deportation.

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

THE RESPONDENTS

13. Respondent Todd BLANCHE is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

14. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

15. Respondent Markwayne MULLIN is the Secretary of the DHS. De is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is named in his official capacity.

16. Respondent Todd LYONS, ICE Director, is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants. He is a legal custodian of Petitioner and is named in his official capacity.

17. Respondent Laura HERMOSILLA is the Director of the Seattle Field Office of ICE's Enforcement and Removal Operations (ERO) division. As such, Ms. Hermosilla is Petitioner's immediate custodian and is responsible for her detention. She is named in her official capacity.

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HABEAS CORPUS REQUIREMENTS UNDER 28 U.S.C. §§ 2241, 2243

18. 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.* (emphasis added).

19. 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) (emphasis added).

20. Petitioner is “in custody” for the purpose of § 2241 because he is subject to Respondents’ final removal order. The Ninth Circuit has held that a person subject to a final removal order, as Petitioner is here, is “in custody” for the purposes of the habeas statute. See *Veltmann-Barragan v. Holder*, 717 F.3d 1086, 1088 (9th Cir. 2013) (quoting *Nakaramurack v. United States*, 68 F.3d 290, 293 (9th Cir. 1995)); see also, e.g., *Rosales v. Bureau of Immigr. And Customs Enf’t*, 426 F.3d 733, 735 (5th Cir. 2005).

LEGAL REQUIREMENTS FOR MOTION TO REOPEN

21. An immigration judge may upon the motion of the alien, reopen or reconsider any case in which the judge has rendered a decision, unless jurisdiction

1 is vested within the Board of Immigration Appeals. 8 C.F.R. § 1003.23(b)(1). A
2 party may file only one motion to reopen proceedings. *Id.*
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4 22. Generally, a motion to reopen must be filed within 90 days of the date of
5 entry of the final administrative order of removal, deportation, or exclusion. *Id.*
6 However, by regulation, an immigration judge can reopen a removal order sua
7 sponte at any time. *See id.*
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9 23. A motion to reopen proceedings shall state the new facts that will be proven
10 at a hearing to be held if the motion is granted and shall be supported by affidavits
11 and other evidentiary material. 8 C.F.R. § 1003.23(b)(3). Any motion to reopen for
12 the purpose of acting on an application for relief must be accompanied by the
13 appropriate application for relief and all supporting documents. *Id.* A motion to
14 reopen will not be granted unless the immigration judge is satisfied that evidence
15 sought to be offered is material and was not available and could not have been
16 discovered or presented at the former hearing. *Id.* A motion to reopen for the
17 purpose of providing the alien an opportunity to apply for any form of discretionary
18 relief will not be granted if it appears that the alien's right to apply for such relief
19 was fully explained to them by the immigration judge and an opportunity to apply
20 therefor was afforded at the hearing, unless the relief is sought on the basis of
21 circumstances that have arisen subsequent to the hearing. *Id.*
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27 24. Any departure from the United States, including the deportation or removal
28 of a person who is the subject of exclusion, deportation, or removal proceedings,

1 occurring after the filing of a motion to reopen or a motion to reconsider shall
2 constitute a withdrawal of such motion. 8 C.F.R. § 1003.23(b)(1).
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4 **FACTUAL ALLEGATIONS**

5 25. On January 20, 2025, the president of the United States issued several
6 executive actions relating to immigration, including “Protecting the American
7 People Against Invasion,” an executive order (EO) setting out a series of interior
8 immigration enforcement actions. The present administration, through this and
9 other actions, has outlined sweeping, executive branch-led changes to immigration
10 enforcement policy, establishing a formal framework for mass deportation.
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13 26. The “Protecting the American People Against Invasion” EO instructs the
14 DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
15 prioritize civil immigration enforcement procedures including through the use of
16 mass detention.
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19 27. In late May 2025, former Secretary of Homeland Security Kristi Noem and
20 White House Deputy Chief of Staff Stephen Miller met with ICE leadership and set
21 a arrest quota of 3,000 per day and reportedly threatening job consequences if
22 officials failed to meet arrest quotas.²
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25 ²Julia Ainsley, et al., A sweeping new ICE operation shows how Trump’s focus on immigration is
26 reshaping federal law enforcement, NBC News (June 4, 2025),
27 [https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-](https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigrationreshape-federal-lawenforcement-rcna193494)
28 [immigrationreshape-federal-lawenforcement-rcna193494](https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigrationreshape-federal-lawenforcement-rcna193494) (last visited Nov 26, 2025); Brittany
Gibson & Stef W. Kight, Scoop: Stephen Miller, Noem tell ICE to supercharge immigration
arrests, Axios (May 28, 2025), available at [https://www.axios.com/2025/05/28/immigration-](https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller)
[ice-deportations-stephen-miller](https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller) (last visited Nov. 26. 2025).

1 29. On May 28, 2025 Deputy Chief of Staff Miller confirmed that “[u]nder
2 President Trump’s leadership, we are looking to set a goal of a minimum of 3,000
3 arrests for ICE every day, and President Trump is going to keep pushing to get that
4 number up higher each and every single day.”³

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6 30. Following the directive from Noem and Miller, ICE agents were instructed
7 in an email to “turn the creativity knob up to 11” and aggressively “push the
8 envelope” in arrests, including by pursuing “collaterals.” One email is reported to
9 have said: “If it involves handcuffs on wrists, it’s probably worth pursuing.”⁴
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12 **CIRCUMSTANCES OF PETITIONER'S CASE**

13 31. Petitioner Reynaldo Ortiz Barajas is a 55-year-old man, born in Mexico on
14  He was approximately 20 years old when he entered the United
15 States seeking asylum. Petitioner sole entrance into the United States was in 1991,
16 and he has since resided in the United States.
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18 32. Petitioner fled violence in Mexico and came to the United States seeking
19 safety and protection. He had a fear of returning to Mexico after 
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25 ³Hannity, Sean, “Stephen Miller says the admin wants to create the strongest immigration system
26 in US History”, FOX NEWS (May 28, 2025),
<https://www.foxnews.com/video/6373591405112> (last visited Nov. 26, 2025).

27 ⁴Olivares, José, “US immigration officers ordered to arrest more people even without warrants,”
28 The Guardian (Jun 4, 2025) <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>

1 Immigration Judge Frank M. Travieso at the Tacoma Immigration Court found the
2 Petitioner credible, his petition was denied. Petitioner was ordered removed on June
3 15, 2020. Petitioner appealed to the Board of Immigration Appeals, but his appeal
4 was dismissed on November 16, 2020. Petitioner appealed to the United State
5 Court of Appeals for the Ninth Circuit. Petitioner moved for a voluntary dismissal
6 on February 21, 2021, and the Ninth Circuit granted Petitioner's motion on March
7 2, 2021.
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10 33. Petitioner currently resides in Vancouver, Washington, with his spouse,
11 Obdulia Velasco Castellanos. [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 [REDACTED] Petitioner assisted the
16 Vancouver Police Department with their investigation and cooperated with the
17 District Attorney's Office during the prosecution of the two individuals responsible
18 for his son's murder.
19

20 34. Petitioner filed Form I-918, Petition for U Nonimmigrant Status, with the
21 United States Citizenship and Immigration Services (USCIS) on April 16, 2020.
22 USCIS issued a bona fide determination on Petitioner's I-918 petition on
23 November 2, 2022. However, USCIS could not grant Petitioner a visa since the
24 statutory cap for U-1 nonimmigrant status visas had been reached. Petitioner was
25 placed on a waitlist for a U-1 visa and was granted deferred action. Petitioner
26 plans to file a Motion to Reopen and Terminate his Removal proceedings with
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1 the Tacoma Immigration Court based on his U-1 visa once his visa is issued.

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3 **CLAIM FOR RELIEF**

4 **Violation of Fifth Amendment Right to Due Process**

5 35. The Due Process Clause of the Fifth Amendment prohibits the government
6 from depriving any person of “life, liberty, or property, without due process of law.”
7 U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States,
8 including [non-citizens], whether their presence here is lawful, unlawful,
9 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
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11 36. Due process requires that government action be rational and non-arbitrary.
12 See *United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Due process also
13 requires notice and “the opportunity to be heard ‘at a meaningful time and in a
14 meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting
15 *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).
16

17 37. Here, Petitioner reasonably believes Respondents will detain and deport him
18 in an arbitrary manner and not based on a rational and individualized determination
19 of whether he is a safety or flight risk, in violation of due process. Petitioner is now
20 eligible and able to submit a Motion to Reopen due to changes in his circumstances
21 based on USCIS’s bona fide determination that he qualifies for a U-1 visa.
22 Detaining and removing Petitioner when no circumstances have changed to make
23 him a flight risk or a danger to the community would preemptively terminate his
24 Motion to Reopen and violate due process.
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PRAYER FOR RELIEF

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

- a) Assume jurisdiction in this matter;
- b) Issue an immediate order barring the Respondents from detaining and removing Petitioner from the state of Washington without notice to the court and approval by the court;
- c) Issue an order to show cause why this petition should not be granted within three (3) days if Petitioner is detained.
- d) Declare that Petitioner's detention and removal violate applicable regulations, the INA, and the Fifth Amendments to the Constitution of the United States.
- e) Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody if Petitioner is detained.
- f) Award Petitioner reasonable attorneys' fees and costs under the Equal Access to Justice Act and any other statute applicable to this matter.
- g) Grant any further relief as the court may deem just and proper.

Dated this 6th day of April of 2026.

/s/ Jeffrey C. Gonzales

WSBA # 13864
Attorney for Petitioner