Dina Lovenstein, OSB 224957
Lutheran Community Services NW
3600 Main St, Suite 200
Vancouver, WA 98663
T. (360) 787-4712
E. dlovenstein@lcsnw.org

Attorney for Petitioner

UNITED STATES DISTRICT

COURT DISTRICT OF OREGON

Portland Division

RAUL RODRIGUEZ RODRIGUEZ

Petitioner,

V.

JUAN HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"), DAVID VENTURELLA, Acting Director of Immigration and Customs Enforcement ("ICE"), U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS"), U.S. DEPARTMENT OF HOMELAND SECURITY, and TODD BLANCHE, Acting Attorney General of the United States.

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. Petitioner, Raul Rodriguez Rodriguez ("Petitioner"), is a native and citizen of Mexico who has lived in the United States for the better part of the last two decades and who has never been arrested, charged, or convicted of any crime anywhere in the world. Petitioner fears returning to Guerrero, Mexico, where [redacted]

2. Released from immigration custody on his own recognizance in 2014, Petitioner has complied with every request, demand, and requirement imposed by Respondents for over a decade, including attending every immigration hearing and reporting as required under the Intensive Supervision Appearance Program ("ISAP"), where he currently wears a GPS ankle monitor at Respondents' direction.

3. On February 25, 2026, Petitioner filed a Motion to Reopen with the Board of Immigration Appeals ("Board" or "BIA") based on changed country conditions in Mexico and new evidence that [redacted] The motion remains pending and unadjudicated.

4. Despite Petitioner's unblemished compliance record, the absence of any criminal history, and a colorable Motion to Reopen pending squarely before the Board, Respondents attempted to arrest Petitioner at his residence on June 27, 2026 after notifying Petitioner that his Order of Release on Recognizance was revoked at midnight on June 26, 2026.

Respondents now request that Petitioner present himself at the Immigration and Customs Enforcement and Removal Operations ("ICE"/"ERO") in Portland, Oregon on July 17, 2026 at 9am.

5. Respondents retain the authority and stated intention to detain and remove Petitioner at any time, including at a future ISAP check-in, without waiting for the Board to rule and without any individualized determination that circumstances have changed since Petitioner was released from custody in 2014.

6. Removing or detaining Petitioner before the Board adjudicates his pending Motion to Reopen would render any relief the Board might grant meaningless, would deprive Petitioner of due process, and would expose him to a substantial risk of persecution or death. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant Petition for Writ of Habeas Corpus, find that any attempt by Respondents to detain, remove, or transfer Petitioner out of this district before the Board rules on his pending motion is arbitrary, capricious, and unlawful, and enjoin Respondents accordingly.

JURISDICTION

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

8. 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).

9. 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

10. Venue is proper because Petitioner resides within this judicial district and is subject to Respondents' constructive custody within this district. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District. 28 U.S.C. § 1391(e).

11. For these same reasons, divisional venue is proper under the applicable Local Rules.

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

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to 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 a short period set by the Court, not exceeding twenty days absent good cause. *Id.*

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention and unlawful government action taken under color of immigration custody. *See Fay v. Noia*, 372 U.S. 391, 400 (1963) (describing the writ as an essential safeguard against illegal restraint or confinement).

Petitioner is "in custody" for the purpose of § 2241 because he remains subject to Respondents' constructive custody through ongoing ISAP reporting requirements and a GPS ankle monitor. Additionally, Respondents attempted to detain Petitioner at his residence on June 27, 2026. Courts have repeatedly held that the in-custody requirement of 28 U.S.C. § 2241 is satisfied where the government restricts a petitioner's freedom of action or movement, including through an 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, 772–74 (11th Cir. 2011) (same).

PARTIES

14. Raul Rodriguez Rodriguez ("Petitioner") is a 48-year-old native and citizen of Mexico and a resident of Portland, OR, where he resides with his wife and three U.S. citizen daughters and is present within this judicial district as of the time of the filing of this Petition.

15. Respondent Juan Hernandez is the Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"). The Seattle Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens within its area of responsibility, which includes Alaska, Oregon, and Washington. Respondent Bostock is a legal custodian of Petitioner.

16. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of Respondent Bostock and ICE in general. Respondent Venturella is a legal custodian of Petitioner.

17. Respondent Markwayne Mullin 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. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

18. Respondent Todd Blanche is the Acting Attorney General of the United States, and as such has authority over the Department of Justice, including the Executive Office for Immigration Review and the Board of Immigration Appeals, and is charged with faithfully administering the immigration laws of the United States.

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

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

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

22. Petitioner's removability is currently the subject of a Motion to Reopen pending before the Board of Immigration Appeals.

LEGAL FRAMEWORK

23. Noncitizens in immigration proceedings are entitled to due process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

24. Due process protects "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *accord Flores*, 507 U.S. at 306.

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

26. A motion to reopen ordinarily must be filed within 90 days of a final administrative order, but that time limit does not apply to a motion to reopen based on changed country conditions arising in the country of removal, supported by evidence that is material and was not available and could not have been discovered or presented at the previous hearing. 8 U.S.C. § 1229a(c)(7)(C)(ii).

27. Under the Administrative Procedure Act ("APA"), a court shall "hold unlawful and set aside agency action" that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A). An agency abuses its discretion when it "entirely fail[s] to consider an important aspect of the problem, offer[s] an explanation for its decision that runs counter to the evidence," or reaches a result "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)).

28. Custody and supervision determinations for individuals released from custody must be based on an individualized review of the facts and circumstances of the case, and revocation of a release decision requires changed facts or circumstances, not a categorical policy. *See* 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

FACTUAL BACKGROUND

29. Petitioner was born in Acapulco, Guerrero, Mexico, on [redacted] Petitioner married his wife, Doranelly Contreras Coria, in 2002.

30. Petitioner and his wife entered the United States in 2002. While in the United States, Petitioner's wife gave birth to two of the couple's daughters, both of whom are United States citizens by birth.

In 2011, Petitioner and his family returned to Mexico. After experiencingpersecution in Mexico, Petitioner and his family reentered the United States in 2014. Petitioner was detained at the border upon reentry and was subsequently released on his own recognizance.

31. After the family's return to the United States, Petitioner's wife gave birth to the couple's third daughter, who is now two years old and, like her sisters, a United States citizen.

32. Since his release in 2014, Petitioner has complied with every demand, request, and requirement imposed by Respondents, has attended every immigration court hearing, and has fully complied with the terms and conditions of his release.

33. Petitioner is currently under the supervision of the Intensive Supervision Appearance Program ("ISAP") and wears a GPS ankle monitor at Respondents' direction.

34. Petitioner has never been arrested, charged, or convicted of a crime anywhere in the world.

35. Petitioner submitted an application for asylum, withholding of removal, and protection under the Convention Against Torture in 2019.

36. The Board dismissed Petitioner's appeal on April 26, 2022, resulting in a final administrative order of removal.

37. On February 25, 2026, Petitioner filed a Motion to Reopen with the Board based on new evidence that [redacted] and based on evidence of changed country conditions in Mexico. Because this evidence relates to changed country conditions arising in the country of removal and was previously unavailable, the Motion to Reopen falls within the exception to the ordinary 90-day filing deadline set forth at 8 U.S.C. § 1229a(c)(7)(C)(ii).

38. Petitioner's Motion to Reopen remains pending before the Board and has not been adjudicated. Petitioner's removability is therefore currently the subject of pending administrative proceedings before the Board of Immigration Appeals.

39. Petitioner and his counsel believe that Respondents may seek to detain and remove Petitioner at his July 17, 2026 appointment at the Portland ICE office without waiting for the Board to adjudicate the pending Motion to Reopen without any individualized determination that circumstances have changed since Petitioner's release from custody in 2014.

40. If Petitioner is detained, he may be transferred away from this district to a remote detention facility before removal, without consideration of the individualized facts and circumstances of his case, including the pending Motion to Reopen and the risk of persecution and death he faces in Guerrero, Mexico.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Right to Due Process — Removal Absent Adjudication of a Timely, Colorable Motion to Reopen

41. Petitioner restates and realleges all paragraphs as if fully set forth herein.

42. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V. Due process protects all persons within the United States, regardless of immigration status. *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

43. Petitioner has a timely and colorable Motion to Reopen pending before the Board, supported by material evidence of changed country conditions and new evidence [redacted] that was unavailable at his prior hearing.

44. Removing Petitioner before the Board rules on his pending Motion to Reopen would render any relief the Board might grant a nullity, would deprive Petitioner of any meaningful opportunity to have his claims adjudicated, and would violate his right to procedural due process.

45. Because Petitioner's removal would expose him to a substantial risk of persecution or death [redacted] removing him before his claims are adjudicated would be fundamentally unfair and would violate due process.

COUNT TWO

Violation of the Administrative Procedure Act — 5 U.S.C. § 706(2)(A) — Arbitrary and Capricious Action and Abuse of Discretion

46. Petitioner restates and realleges all paragraphs as if fully set forth herein.

47. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion or otherwise arbitrary and capricious. 5 U.S.C. § 706(2)(A).

48. Petitioner has complied with every condition of his release for over a decade, has attended every hearing, has no criminal record, and is subject to continuous, close supervision through ISAP and a GPS monitor. There has been no change in the facts or circumstances bearing on Petitioner's flight risk or danger to the community since his release in 2014.

49. Any decision by Respondents to detain or remove Petitioner without individualized consideration of these facts — including his sustained compliance, the pendency of a timely and colorable Motion to Reopen, and the absence of any changed circumstances — would constitute an abuse of discretion and arbitrary and capricious agency action in violation of the APA.

COUNT THREE

Violation of Due Process — Risk of Persecution and Torture Without Process

50. Petitioner restates and realleges all paragraphs as if fully set forth herein.

51. While the government has discretion to enforce final orders of removal, that discretion is not unlimited and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.

52. Petitioner has presented material, previously unavailable evidence that a cartel operating in [redacted]. This evidence has not yet been evaluated by the Board.

53. Removing Petitioner to face this risk of persecution, torture, or death before any adjudicator has evaluated the evidence underlying his Motion to Reopen would be arbitrary and would violate Petitioner's right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1) Assume jurisdiction over this matter;

2) Issue an Order to Show Cause directing Respondents to show cause why this Petition should not be granted within three (3) days;

3) Declare that removing or detaining Petitioner without an individualized determination, and before the Board adjudicates his pending Motion to Reopen would violate the Due Process Clause of the Fifth Amendment;

4) Declare that any such removal or detention would violate the Administrative Procedure Act;

5) Issue a Writ of Habeas Corpus, or a preliminary and permanent injunction, prohibiting Respondents from removing Petitioner from the United States, or detaining him, until the Board of Immigration Appeals adjudicates Petitioner's pending Motion to Reopen;

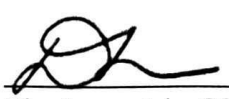
6) Issue an Order prohibiting Respondents from transferring Petitioner out of this district without further order of this Court;

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

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

Dated: July 10, 2026

Respectfully submitted,



Dina Lovenstein, OSB 224957 Lutheran Community Services NW 3600 Main St, Suite 200
Vancouver, WA 98663
T. (360) 787-4712
E. dlovenstein@lcsnw.org

Attorney for Petitioner