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IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

J.Y.L.C.,	)	Case No. 3:25-cv-02083-AB
	)	
Petitioner,	)	Agency No.
	)	
vs.	)	AXXX-XXX-123
	)	
DREW BOSTOCK, Seattle Field Office	)	PETITIONER'S REPLY IN
Director, U.S. Immigration and Customs	)	SUPPORT OF MOTION FOR
Enforcement and Removal Operation, KRISTI	)	TEMPORARY
NOEM, Secretary of Homeland Security,	)	RESTRAINING ORDER AND
PAMELA BONDI, Attorney General, TODD	)	PETITION FOR WRIT OF
LYONS, Acting Director of Immigration and	)	HABEAS CORPUS
Customs Enforcement, U.S. DEPARTMENT	)	
OF HOMELAND SECURITY, U.S.	)	ORAL ARGUMENT
IMMIGRATION AND CUSTOMS	)	REQUESTED
ENFORCEMENT, and U.S. DEPARTMENT	)	
OF JUSTICE	)	Expedited hearing requested
	)	
Respondents.	)	

PETITIONER'S REPLY IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER
AND PETITION FOR WRIT OF HABEAS CORPUS

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner J.Y.L.C. is a 24-year-old father of a 13-month-old U.S. citizen child,  who was born in Hillsboro, Oregon. Before his sudden arrest on November 8, 2025, Petitioner lived in Beaverton with his child, partner, and extended family, working full-time in construction to support them. Petitioner's Declaration. ("Pet. Decl.") at ¶ 2.

On Saturday, November 8, 2025, U.S. Immigration and Customs Enforcement ("ICE") officers detained him without prior notice in Beaverton, Oregon. ECF 12. He was cooperative during arrest, and ICE's own declaration confirms that officers randomly ran license plates and decided to stop his vehicle, not that he was evading supervision or committing a crime. *Id.*; see Pet. Decl. at ¶ 3. Petitioner was handcuffed, told—incorrectly—that he had a deportation order, and transferred to the Northwest Detention Center ("NWDC") in Tacoma, Washington, later that same day. Pet. Decl. at ¶ 3.

Counsel filed the Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order at 4:58 p.m. on November 8, while Petitioner was still detained within the District of Oregon. ECF 1-2. ICE transported Petitioner at 5:07 p.m., nine minutes after filing. On November 9, 2025, this Court issued an order confirming that it retains subject matter jurisdiction and directing that Petitioner not be transferred further without leave of court. ECF 10.

The government now seeks to justify that arrest under INA § 235(b)(2), even though Petitioner was long ago admitted to regular § 1229a proceedings and living under an Order of Release on Recognizance (“OREC”). ICE’s own declaration confirms that the stop was random, based on a license-plate run, and not prompted by any violation or flight attempt. ECF 12 at 4. The record thus reveals a discretionary roadside enforcement action—not a lawful § 235(b)(2) apprehension.

That same day, Respondents filed a combined response (ECF 11), supported by a declaration from Deportation Officer David Bagirov (ECF 12). The government does not dispute this Court’s jurisdiction, but asserts that Petitioner’s detention is authorized under INA § 235(b)(2) due to an alleged failure to update his address and because he was driving without a license; however, Petitioner was long in § 1229a removal proceedings and released under § 236(a); his move remained within the Portland area, and he has complied with all prior hearing and reporting obligations.

Counsel spoke with Petitioner by telephone on November 10, 2025, obtained his sworn unsigned¹ statement (Exhibit A), and verified its contents in Spanish.

Petitioner now seeks emergency relief to restore the status quo, prevent further harm to his Oregon family, and preserve his constitutional rights.

¹ Staff at NWDC informed Petitioner’s Counsel that document signature must be scheduled at least 24 hours in advance and that no same-day option exists to obtain a client’s signature. The earliest appointment available is November 11, 2025. Counsel will obtain Petitioner’s signature and file the signed declaration as soon as possible. These access restrictions further demonstrate the urgent need for this Court’s intervention to ensure Petitioner’s meaningful ability to participate in his case.

II. ARGUMENT

A. Jurisdiction and Venue Are Proper in This District

This Court has already found that it has jurisdiction, as the petition was filed while Petitioner was still detained in Oregon. ECF 10. The Supreme Court in *Ex parte Endo*, 323 U.S. 283, 306 (1944), and the Ninth Circuit in *Francis v. Rison*, 894 F.2d 353, 354 (9th Cir. 1990), make clear that jurisdiction attaches upon filing and is not defeated by subsequent transfer.

Venue also remains proper in Oregon because the arrest, residence, family ties, and counsel are all located here. 28 U.S.C. § 1391(e). Any attempt to remove Petitioner from this District would directly contravene this Court's standing order and the jurisdictional principles underlying habeas review.

B. Detention Falls Under 8 U.S.C. § 1226(a), Not § 1225(b)(2)

Respondents' reliance on 8 U.S.C. § 1225(b)(2) is misplaced. That provision governs the treatment of "applicants for admission" encountered at or near the border who have not been formally admitted into the United States. The statute provides:

"In the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title."

8 U.S.C. § 1225(b)(2)(A).

By contrast, 8 U.S.C. § 1226(a) governs detention of “an alien pending a decision on whether the alien is to be removed from the United States.” It expressly provides that the Secretary of Homeland Security “may continue to detain the alien,” or “may release the alien on bond... or conditional parole.” 8 U.S.C. § 1226(a)(1)–(2).

This statutory distinction is critical. Section 1225(b)(2) applies only to individuals who have never been formally admitted and are treated as “arriving aliens”—typically those encountered at ports of entry or immediately following unlawful entry. Petitioner, however, was admitted to § 1229a removal proceedings in 2017 as an unaccompanied minor, released on an Order of Recognizance, and consistently complied with his supervision requirements. Once DHS released him under § 1226(a), his custody and supervision remained governed exclusively by that section, not by § 1225(b)(2).

ICE’s attempt to retroactively classify Petitioner as an “arriving alien” under § 1225(b)(2) to justify re-detention is contrary to the statute’s plain text and structure. It also circumvents the due process protections that accompany § 1226(a) custody, including the right to an individualized bond determination.

Here, ICE’s invocation of § 1225(b)(2) to justify re-detention of a long-released asylum applicant is contrary to the statute’s text and structure. Petitioner is not an “applicant for admission,” and his detention falls squarely within the framework of § 1226(a), which authorizes release on bond and requires a prompt custody determination. Because no such individualized review has occurred, his current detention is unlawful.

and violates the Fifth Amendment's Due Process Clause.

C. Revocation of Release Was Arbitrary and Unlawful

The Department of Homeland Security ("DHS") "at any time may revoke a bond or parole" issued pending a removal decision and then "rearrest the alien under the original warrant." 8 U.S.C. § 1226(b); *see also* 8 C.F.R. 236.1(c)(9). But it "has long been recognized by the Board of Immigration Appeals" that the discretion to revoke release "is limited to situations in which there has been a 'change [of] circumstances' since the non-citizen was initially released." *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A. 1981). More specifically, a material change in circumstances as to whether "the noncitizen poses a danger to the community or an unreasonable risk of flight." *United States v. Cisneros*, No. 19-CR-00280-RS-5, 2021 WL 5908407, at *3 (citing *In re Guerra*, 24 I. & N. Dec. 37 (BIA 2006)). The Ninth Circuit and its lower courts have adopted *Sugay's* limit. *See Panosyan v. Mayorkas*, 854 Fed.Appx. 787, 788 (9th Cir. 2021); *see also Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *5 (W.D. Wash. Oct. 7, 2025); *Cisneros*, 2021 WL 5908407, at *3; *Ortega v. Bonnar*, 415 F.Supp.3d 963, 968 (N.D. Cal. 2019); *see also Y.M.M. v. Wamsley*, 2:25-cv-02075 (W.D. Wash. Nov 06, 2025).

Here, Officer Bagirov's declaration admits the arrest followed a random license plate query and that the only alleged violations were (1) failure to update address, and (2) driving without a license. ECF 12. Neither alleged ground constitutes a material

breach of release conditions under 8 U.S.C. § 1226(a) or 8 C.F.R. § 241.5.

Section 1226(a) authorizes the Secretary of Homeland Security to detain or release “an alien pending a decision on whether the alien is to be removed from the United States.” Once released on bond or recognizance, the individual remains under supervision subject to the conditions prescribed by the government. The regulatory authority to re-detain is conditional, not automatic. It requires a finding that the individual actually violated a condition of release, that the violation was material, and that re-detention is reasonably related to the purposes of the statute (effectuating removal or protecting the public). *See Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981) (release may be revoked only upon “material change in circumstances”). The arrest, therefore, was arbitrary and in violation of Section 1226(a) requirement for a lawful basis for custody.

Here, ICE has shown neither a material violation nor a legitimate removal purpose. Petitioner relocated within the same metropolitan area (Hillsboro to Beaverton), continued to reside with his family, and remained fully accessible to counsel and ICE. The alleged failure to file a separate change-of-address form was, at most, a technical oversight, not a willful act of evasion. Driving without a license—an administrative infraction under Oregon law—does not constitute a federal offense, nor

does it demonstrate any danger to the community or intent to abscond.²

Moreover, detention under § 1226(a) remains discretionary and must be supported by a lawful process. As the Ninth Circuit has emphasized, “due process requires adequate procedural protections to ensure that the government’s asserted justification for physical confinement outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1065 (9th Cir. 2008) (internal quotation marks omitted). ICE’s summary re-detention—without notice, bond hearing, or individualized assessment—violates both statutory and constitutional safeguards.

The government’s explanation of the stop confirms that the re-detention was arbitrary and lacked the necessary legal basis. While Deportation Officer Bagirov’s declaration concedes the stop was the result of officers “randomly running the license plates of vehicles traveling around them” to determine if the owner was “in the United States unlawfully” (ECF 12 at 4), the government then claims an administrative arrest warrant (I-200) was “hand generated in the field before the vehicle stop.” ECF 11 at 4. This admission strongly suggests the administrative warrant was used as a pretext for the stop, not as a response to a documented material violation. The subsequent revocation of the OREC—based solely on an administrative lapse (address change) and a non-violent

² While driver’s licenses serve as proof of competency and compliance with state traffic laws, Oregon law treats driving without a license as a *Class B traffic violation* under ORS § 807.010, punishable only by a fine. It is not a criminal act and does not, in itself, indicate unsafe driving or a threat to public safety—particularly where, as here, Petitioner’s family maintained insurance coverage for the vehicle and no traffic accident, reckless conduct, or other safety violation occurred.

misdemeanor (driving without a license) —was arbitrary and designed to circumvent the lawful custody process. This procedure demonstrates an ultra vires action that fails to meet the BIA's standard that release may be revoked only upon a "material change in circumstances." *Sugay*, 17 I. & N. Dec. at 640 (BIA 1981).

While Respondents cite *Salvador F.-G. v. Noem*, No. 25-cv-0243, 2025 WL 1669356, at *9 (N.D. Okla. June 12, 2025) (ECF 11 at 15-16, n. 4), a non-binding district court case in Oklahoma, suggesting that some courts have not required a change in a noncitizen's circumstances before revoking parole, this Court should not depart from the controlling standard established by the BIA. The BIA's own long-standing precedent in *Matter of Sugay*, clearly requires a showing of a "material change in circumstances" to justify the revocation of an individual's release on bond or recognizance under the predecessor statute to 8 U.S.C. 1226(a). Furthermore, the Ninth Circuit's requirements for procedural fairness established in cases like *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) and *Prieto-Romero v. Clark* mandate that the government's discretion be constrained by objective standards. Therefore, the *Sugay* standard, which constrains arbitrary action, is the correct and controlling authority to be applied to the revocation of Petitioner's OREC.

Because ICE's only asserted basis for re-detention—a purported failure to update Petitioner's address and driving infraction—does not constitute a willful or material violation of his supervision conditions, and because no change in circumstances

warranted re-arrest, the decision to revoke release was arbitrary, ultra vires, and unsupported by law. A minor administrative lapse, even if proven, does not satisfy the legal standard for revoking release under 8 U.S.C. 1226(a), which requires a showing of "sufficient cause, usually a material change in circumstances" (*Matter of Sugay*, 17 I.&N. Dec. 637, 640 (BIA 1981)). Absent such a showing, Petitioner's arrest and continuing confinement are unlawful and inconsistent with the constitutional principle that "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

D. Lack of Custody Hearing and Counsel Access Violates Due Process

Petitioner's continuing detention is unlawful because it constitutes a clear violation of his fundamental rights to procedural due process under the Fifth Amendment, as established by binding Ninth Circuit and Supreme Court precedent. The government has failed to provide Petitioner with an individualized custody review, and it has actively obstructed his access to counsel and the courts.

Petitioner remains detained following a summary re-detention without having received an individualized bond hearing or any meaningful judicial review of his custody status. The constitutional claim is that this lack of individualized determination contravenes the foundational principle that civil detention must be accompanied by robust procedural safeguards. As the Ninth Circuit emphasized in *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), due process requires not only notice of the reasons for

detention but also the opportunity to be heard before an Immigration Judge, leading to an individualized determination that detention is necessary because the alien poses a flight risk or a danger to the community. Because Petitioner is detained under the discretionary authority of 8 U.S.C. § 1226(a), the right to this individualized review is firmly established, and its denial renders the detention unlawful.

The Respondents' assertion that transferring Petitioner to the NWIPC in Tacoma is justified by the "lack of overnight immigration detention space in Oregon" and because the NWIPC is the "closest immigration detention facility to Oregon" is an argument based purely on administrative convenience. ECF 12 at 6. This logistical preference does not outweigh the Petitioner's fundamental constitutional rights to Due Process and access to the courts with counsel, which the detention actively infringes. The decision to detain Petitioner outside of the District of Oregon imposes significant and unwarranted hardship on the Petitioner and his retained Oregon counsel, directly interfering with their ability to meet and prepare for his time-sensitive habeas and underlying December removal hearings. Furthermore, the intent to seek an automatic change of venue to the Tacoma Immigration Court, an admitted effect of the detention, constitutes a prejudice and potential forum manipulation that judicial intervention is necessary to prevent.

Furthermore, ICE's operational restrictions at the detention facility actively and unconstitutionally infringe upon Petitioner's right to counsel and access to the courts. Despite having a statutory right to counsel of his choice (8 U.S.C. § 1362), Petitioner's

ability to communicate with his attorneys and receive assistance is severely impeded by requirements such as 24-hour notice for legal visits and the prohibition against immediate execution of time-sensitive declarations. In a time-critical Habeas Corpus proceeding challenging the lawfulness of the detention itself, the inability to promptly meet with counsel or sign necessary documents directly obstructs the fundamental right of access to the courts.

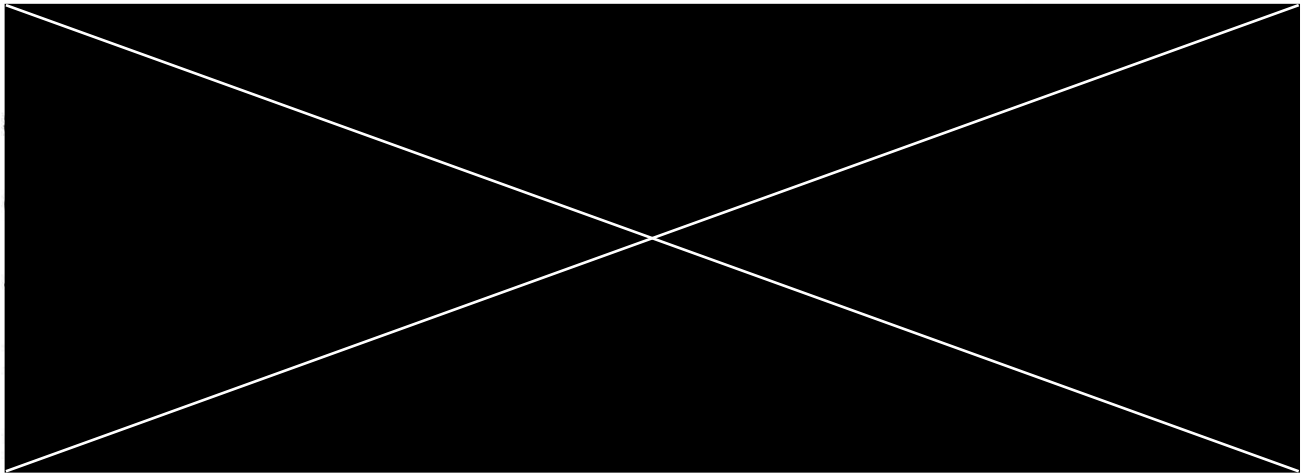
The cumulative impact of the denial of custody review and the systemic restriction of legal access constitutes irreparable constitutional harm. This harm is irreparable because the loss of liberty and the effective denial of judicial access cannot be adequately remedied after the fact, thereby presenting the precise type of ongoing constitutional injury that warrants the immediate intervention of a Temporary Restraining Order.

E. Petitioner Faces Severe and Irreparable Harm Justifying Emergency Relief

The Petitioner faces immediate, severe, and irreparable constitutional and economic harm that far outweighs any governmental interest in his continued detention, necessitating a grant of release or emergency relief. Petitioner is the sole financial provider for his 13-month-old U.S. citizen son, Christian Lopez Gonzalez, and his partner, with the emotional distress and developmental harm to the child being immediate and ongoing, as the partner reports the infant misses him and cries daily. Pet. Decl. ¶ 2. This severe familial disruption violates the fundamental liberty interest in

family integrity, a constitutional injury that cannot be cured by later administrative action. *See Santosky v. Kramer*, 455 U.S. 745, 753 (1982)).

Furthermore, Petitioner's detention risks the permanent loss of his employment in construction and his housing, which would immediately render his U.S. citizen child and partner financially destitute, as he is "completely responsible for [their] financial support." Pet. Decl. ¶ 2. This economic instability, caused by arbitrary detention, constitutes irreparable harm.



Given the constitutional intrusion into family integrity, the imminent risk of financial ruin to a U.S. citizen child, and the profound psychological harm to a trauma survivor, the balance of equities weighs heavily in favor of the Petitioner and requires immediate judicial intervention.

F. The Balance of Equities and Public Interest Favor Release

Petitioner has no criminal history, has complied with all hearings, and poses no threat to public safety. Respondents identify no public interest served by detention. In

contrast, the public interest strongly favors preventing unconstitutional detention and preserving family unity. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

Granting release also supports judicial efficiency, as Petitioner's underlying asylum case remains pending before the Portland Immigration Court.

G. Respondents' Own Factual Admissions Confirm the Need for Judicial Relief

The Respondents' own factual admissions in the Declaration of Deportation Officer David Bagirov underscore the arbitrary nature of the re-detention and strongly favor the granting of the Petition. ECF 12.

The detention lacks a legitimate basis because the stop was fundamentally random and untargeted. The ERO officers were merely "randomly running the license plates of vehicles traveling around them" to check if the registered owner was "in the United States unlawfully." *Id.* at 4. Though the officers hand-generated an arrest warrant once Petitioner was identified, the initial encounter was not based on any specific, ongoing investigation into Petitioner or based on a pre-existing warrant for his arrest. *Id.* at 5. This procedure demonstrates an arbitrary enforcement action, not a targeted necessity to effect removal.

The alleged violations used to justify the revocation of release are minor and insufficient to meet the "material change in circumstances" standard. *Sugay*, 17 I.&N. Dec. at 640. The purported violations are administrative—failure to update his address with ERO/EOIR—and non-violent—driving without a license. While the government

attempts to characterize driving without a license as creating a “danger” (ECF 11 at 5), the absence of any criminal history or serious traffic offense on the record renders the arbitrary revocation of liberty for such a violation contrary to the constitutional principle that “liberty is the norm.” *Salerno*, 481 U.S. at 755.

Crucially, the government intends to immediately file a notice that Petitioner is in custody in Tacoma, which will “automatically result in a change of venue” to the Tacoma Immigration Court. ECF 11 at 5, n. 2. This unilateral action, taken without judicial review and solely based on Petitioner's detention, constitutes a potential forum manipulation that significantly prejudices the Petitioner's ability to litigate his case with his retained counsel in the Oregon venue where his case has been consolidated since 2018. These admissions confirm that the detention is procedural, arbitrary, and directly threatens Petitioner's ability to pursue his asylum claim, thereby underscoring the necessity of immediate judicial intervention and release to restore lawful custody procedures.

IV. REQUEST FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Grant the Petition for a Writ of Habeas Corpus: The Court should find that the detention of Petitioner J.Y.L.C. violates the Constitution and laws of the United States. Consequently, the Court must order the Respondents, their agents, and all persons acting in concert with them, to immediately release the Petitioner from the

custody of ICE.

2. Grant the Motion for a TRO / Preliminary Injunction: The Court should intervene with emergency equitable relief. This must include ordering the immediate release of the Petitioner on his previous OREC or on an appropriate bond set by the Court. The Court should further enjoin Respondents from transferring the Petitioner from the NWDC to any other detention facility pending the final resolution of his removal proceedings. Finally, the Respondents must be enjoined from filing any notice or taking any other action that would effect a change of venue for Petitioner's removal proceedings from the Portland Immigration Court to the Tacoma Immigration Court.

3. Direct an Immediate Custody Redetermination: The Court should order the Immigration Court to hold an immediate bond redetermination hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(d)(1), and find that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

4. Order Access Protections: The Court should order the NWIPC facility to immediately cease imposing restrictions—such as the 24-hour notice requirement—that infringe on Petitioner's right to counsel by impeding his attorneys' ability to meet with him and obtain his signature on time-sensitive legal documents.

Dated this 10th day of November 2025

/s/ Nicholas Costas

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Director, U.S. Immigration and Customs	)	PETITIONER'S
Enforcement and Removal Operation, KRISTI	)	DECLARATION
NOEM, Secretary of Homeland Security,	)	
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OF HOMELAND SECURITY, U.S.	)	Expedited hearing requested
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ENFORCEMENT, and U.S. DEPARTMENT	)	
OF JUSTICE	)	
	)	
Respondents.	)	

1. My name is J.Y.L.C., and I am 24 years old. I arrived in the United States in 2017 when I was 16 years old. I am currently being held at the Northwest Detention Center in Tacoma, Washington.

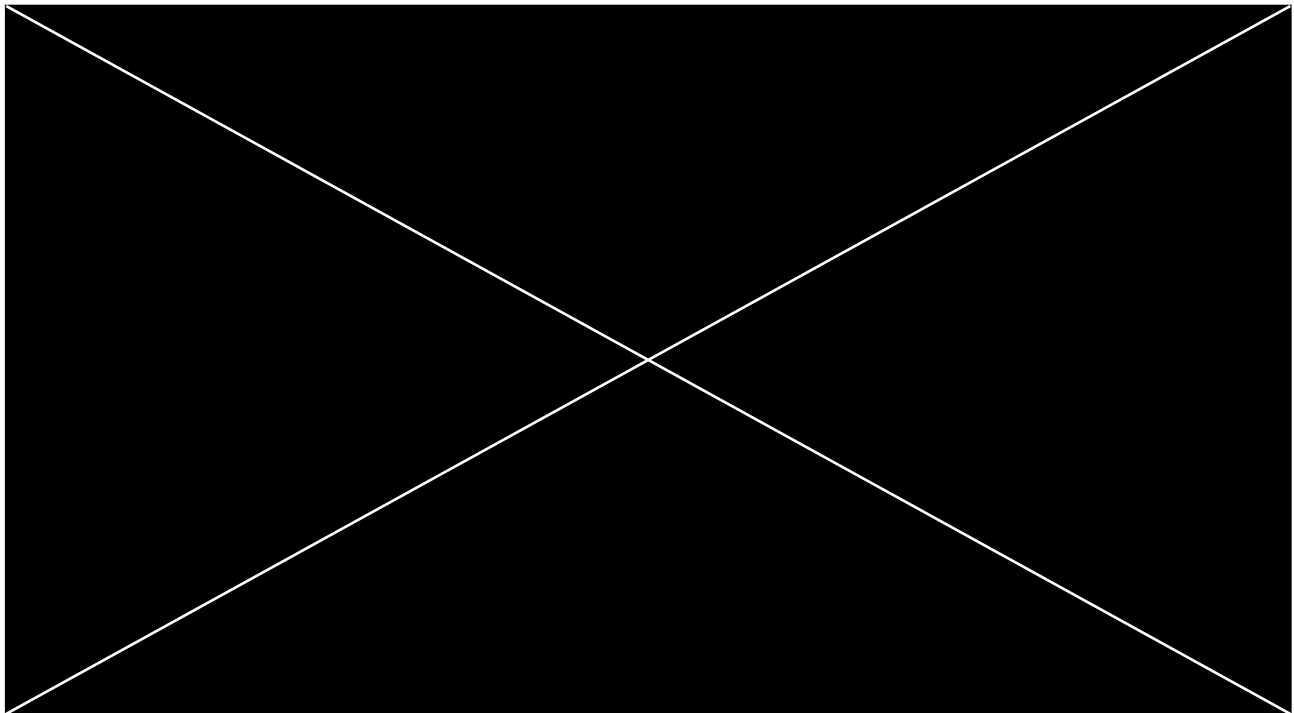
2. Before I was detained, I lived together with my 13-month-old child, [REDACTED]
[REDACTED] C [REDACTED] was born in Hillsboro, Oregon, on [REDACTED] My
partner and C [REDACTED] mom is Dominga Elizabeth Gonzalez Gonzalez. We all live
together with my mother, father and my siblings at the same address. I also live with
my aunt. I work to support my son and my partner. I am completely responsible for
my son and my partner's financial support. My partner tells me that my boy has been
crying and misses me since I was detained. My partner cannot help crying on the
phone since my detention and I am so fearful for myself and them. My partner is also
in process for asylum with another attorney. I work with my work card in
construction. I am afraid I will lose my job because I am in detention and will not be
able to support my family.

3. At the moment I was detained on Saturday, I thought I had done nothing wrong and I
cooperated with the ICE officers. I was pushed against my car and they pulled my
arms behind my back and handcuffed me. I was in a lot of pain because of that. I was
first told that I had a deportation order and that I could leave the U.S. because I had no
criminal history. When I spoke to my attorney, I was told that I did not have a
deportation order against me. I was told that ICE arrested me because I had not
updated my address with them and I was driving without a license. I do not have a
driver's license but my family carries insurance on my car. My last ICE check-in was

June 6, 2022. I attended every prior immigration hearing and have been complying with my reporting requirements. I moved to 

 in the summer of 2023. I thought I updated my address with the Immigration Court but I honestly do not remember now for sure. My plan is to attend all my future hearings and I was planning on attending my upcoming hearing in December with my attorney. I have never been arrested for committing any crimes that I know of.

4. I have been put in a situation like this before. I am really scared and very anxious that I may be deported to my home country. I cannot sleep. I have never been in prison or jail before. I am afraid to return to Guatemala because I am afraid that I will be hurt or killed. I am from the village of Mimanquix, Guatemala. In the winter of 2017, 



 I have been living in the United States since then trying to stay safe and start a new life with my family.

On November 10, 2025, I dictated the above statement over the phone to my attorney in the Spanish language on and read back to me in Spanish. I am fluent in Spanish and I understand its contents. I declare under penalty of perjury under the laws of the United States of America that the above statement is true and correct. I cannot sign this document at this time because I am detained, but I will do so at the first available opportunity.

Dated November 10, 2025

J.Y.L.C. (Signature Omitted Pursuant to Detention)