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9  
10 UNITED STATES DISTRICT COURT FOR THE  
11 WESTERN DISTRICT OF WASHINGTON  
12 SEATTLE DIVISION

13 JOSWAR RODRIGUEZ TORRES,

14 Petitioner,

15 v.

16 KRISTI NOEM, Secretary for the Department  
17 of Homeland Security; TODD LYONS, Acting  
18 Director, Immigration and Customs  
19 Enforcement; LAURA HERMOSILLA, Field  
20 Office Director, Immigration and Customs  
21 Enforcement Seattle Field Office; BRUCE  
22 SCOTT, Warden, Northwest ICE Processing  
23 Center,

24 Respondents.

Case No. 2:25-cv-02697

**PETITION FOR WRIT OF HABEAS  
CORPUS UNDER 28 U.S.C. § 2241**

## INTRODUCTION

1. Petitioner, Mr. Joswar Slater Rodriguez Torres, is a native and citizen of Venezuela paroled into the United States on September 6, 2024, via the CBP One mobile app under 8 U.S.C. § 1182(d)(5). Exh. “A” (Form I-94); *see also* 8 C.F.R. § 212.5(a). He files this petition to seek an immediate release from administrative custody, as his ongoing detention is in violation of his rights under the federal constitution and those guaranteed by the Administrative Procedure Act (“APA”). As of today’s date, he has been detained for 196 days.

2. Petitioner sought asylum at the Tacoma Immigration Court and was ordered removed to Venezuela on October 8, 2025. A timely notice to appeal the decision was filed with the Board of Immigration Appeals (“BIA”) on November 5, 2025, causing the removal order to not yet become “administratively final.” *See* Exhs. “D” and “E” (Form EOIR-26; Filing Receipt for Appeal); 8 U.S.C. § 1101(a)(47)(B); *Go v. Holder*, 640 F.3d 1047, 1051 (9th Cir. 2011). To date, the undersigned has not yet received a transcript from the October 8 proceedings, or a briefing schedule from the BIA.

3. Petitioner cannot seek a release through the Tacoma Immigration Court because, as an “applicant for admission,” the Court cannot take jurisdiction over any bond proceedings. 8 U.S.C. § 1225(b)(2)(A). On December 4, 2025, he applied for discretionary parole directly with ICE, which may release him based on the individualized, case-by-case facts and circumstances. Exh. “F” (Request for Parole, 12/4/2025); 8 C.F.R. § 1236.1(c)(8). The undersigned has not received a response from Officer Piersoll, Petitioner’s designated Detention Officer at the Northwest ICE Processing Center.

4. Given the posture of this case, a writ of habeas corpus is necessary and proper for Petitioner to challenge his unlawful detention.

**PARTIES**

5. Petitioner, Mr. Joswar Slater Rodriguez-Torres, is a Venezuelan citizen presently held at the Northwest ICE Processing Center in Tacoma, Washington.

6. Respondent, Ms. Kristi Noem, is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (“DHS”). Ms. Noem is sued as the cabinet-level secretary responsible for all immigration enforcement in the United States. She implements enforcement of the Immigration and Nationality Act (“INA”) and oversees the operations of Immigration and Customs Enforcement (“ICE”).

7. Respondent, Mr. Todd Lyons, is sued in his capacity as the Acting Director of ICE, which is tasked with executing all immigration law enforcement in the United States.

8. Respondent, Ms. Laura Hermosilla, is sued in her official capacity as the Field Office Director of Seattle’s ICE Field Office, which exercises control over the Spokane Field Office. She bears responsibility for the apprehension, detention, and removal of noncitizens within her Field Office’s jurisdiction. Ms. Hermosilla is the immediate legal custodian of the Petitioner, for purposes of a federal habeas petition.

9. Respondent, Mr. Bruce Scott, is sued in his official capacity as the Warden of the Northwest ICE Processing Center, the privately-operated immigration detention facility where Petitioner is being held in custody. He exercises direct custody over the Petitioner.

**JURISDICTION**

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”). 8 U.S.C. § 1101 et. seq.; *see also Reno v. Flores*, 507 U.S. 292, 306 (1993) (affording immigrants Due Process under the Fifth Amendment).

1 11. The Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),  
2 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution  
3 (Suspension Clause).

4 12. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.  
5 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. §  
6 1651.

7  
8 **VENUE**

9 13. Venue is appropriate under because the Petitioner is detained in this judicial  
10 district. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

11 14. Venue is also properly with this Court under 28 U.S.C. § 1391(e) because  
12 Respondents are employees, officers, and agencies of the United States, and a substantial part of  
13 the events or omissions giving rise to this petition have occurred in the Western District of  
14 Washington.

15 15. For the same reasons, divisional venue is proper under Local Rule 3-2.

16 **FACTUAL ALLEGATIONS**

17 16. Following his paroled entry of September 6, 2024, Petitioner was placed into non-  
18 detained removal proceedings pursuant to 8 U.S.C. § 1229a. Through pro bono counsel, he filed  
19 a timely application for asylum and withholding of removal with the Seattle Immigration Court  
20 on April 14, 2025. Exh. "B" (Form I-589, 4/14/2025).

21 17. Per Form I-94, Petitioner's record of parole into the United States, his status as a  
22 parolee was set to last until September 5, 2026. Exh. "A," p. 2.

1 18. On March 25, 2025, the current presidential administration announced its  
2 revocation of humanitarian parole for beneficiaries of the Cuban, Haitian, Nicaraguan, and  
3 Venezuelan (“CHNV”) parole program. The U.S. Supreme Court upheld this cancellation on  
4 May 30, 2025, and in mid-June of this year, the DHS began sending termination notices to aliens  
5 paroled under the program.

6 19. On June 12, 2025, Petitioner was detained by ICE agents while attending a  
7 routine check-in at the agency’s Spokane Field Office. Exh. “C” (Notice to EOIR: Alien  
8 Address, 6/13/2025). He was thereafter remanded to the Northwest ICE Processing Center in  
9 Tacoma, Washington, where he continues to reside.

10 20. Petitioner has no criminal history in the United States, has not worked in the U.S.  
11 without authorization, and had diligently complied with all conditions ICE imposed upon him as  
12 a parolee. *See* Exh. “F” at p. 18.

13 21. On October 8, 2025, an immigration judge (“IJ”) ordered Petitioner removed to  
14 Venezuela. The undersigned filed a timely notice of appeal, citing multiple legal errors in the IJ’s  
15 analysis. Exh. “D,” p. 5-6. Service of a briefing schedule has not been issued at this time.

16 22. As referenced above, a request for discretionary parole was submitted to ICE on  
17 December 4, 2025. The undersigned communicated with Detention Officer Piersoll at the time of  
18 submission, who instructed that he “would email” counsel with a decision. The request for a  
19 supervised release is quite strong, and includes support letters from an elected Commissioner of  
20 Spokane County (currently the CEO of a philanthropic institution), a two-term president of the  
21 Spokane City Council, the Director of the Barton English Language School, a former U.S.  
22 Attorney for the Eastern District of Washington (2001-2010) and retired Chief of Staff with the  
23 Washington Air National Guard, and a retired judge who served for twenty-eight years on the

Superior Court for the State of Washington and Spokane County District Court. *See* Exh. “F,” p. 21-26, 31-35, 39-40, 42-43. Nineteen days after this submission, an email from Officer Piersoll has not been received.

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

23. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . as it [affords] a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

24. Petitioner is “in custody” for the purpose of 8 U.S.C. § 2241 because he is currently held at the Northwest ICE Processing Center. “[T]he Supreme Court has repeatedly held that the in-custody requirement is met where the Government restricts a petitioner’s freedom of action or movement.” *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).

### LEGAL FRAMEWORK

25. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution.

1       26. The Immigration and Nationality Act (INA) establishes various procedures  
2 through which individuals may be detained pending a decision on whether the noncitizen is to be  
3 removed. 8 U.S.C. § 1226(a), *et. seq.*

4       27. Removal proceedings described in Section 240 of the INA are used to determine  
5 whether persons, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. §  
6 1229a.

7       28. Immigration detention is a form of civil confinement that “constitutes a  
8 significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441  
9 U.S. 418, 425 (1979).

10       29. Custody determinations for “arriving aliens” in § 1229a removal proceedings are  
11 governed by 8 U.S.C. § 1225. As referenced above, 8 U.S.C. §1225(b)(2)(A) strips an IJ’s  
12 jurisdiction over bond proceedings for such people. *See also* 8 CFR 1003.19(h)(1)(i)(B).  
13 However, the DHS does retain the authority to individuals such people from custody, as it  
14 regularly does under 8 C.F.R. § 212.5(a)-(c) (*see also* 8 U.S.C. § 1182(d)(5)). This is precisely  
15 what was done when Petitioner was paroled in the United States in September of 2024.

16       30. The regulation referenced at ¶ 29 provides that an alien who presents neither a  
17 security risk nor a risk of absconding may be paroled if their “continued detention is not in the  
18 public interest as determined by [DHS officials]”. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001);  
19 *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). Here, Petitioner was (a) lawfully paroled into  
20 the United States, (b) has had no criminal arrests or incidents giving rise to the notion that he is a  
21 danger or a flight risk, and (c) has the endorsement several people whose public profiles would  
22 be catastrophically damaged if he does abscond, and who have demonstrated the ability to  
23 support him post-release. The DHS has apparently not considered these factors.

1 31. The DHS has not offered any form of explanation as to why Petitioner's  
2 continued detention or removal from the United States is in the "continued interest of the United  
3 States." The agency has not conducted a "case-by-case determination" regarding his custodial  
4 status, as it is required to by regulation.

5 32. Once a determination to release a person from custody is made, the release order  
6 may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 C.F.R.  
7 § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made  
8 by certain authorized officials. *Id.*

9  
10 **CLAIMS FOR RELIEF**

11 **COUNT ONE**

12 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

13 **Abuse of Discretion**

14 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

15 33. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the  
16 preceding paragraphs as if fully set forth herein.

17 34. Under the APA, a court shall "hold unlawful and set aside agency action" that is  
18 an abuse of discretion. 5 U.S.C. § 706(2)(A). As a "minimum" requirement of due process, a  
19 written statement from DHS – outlining the reasons for one's parole revocation – is a necessary  
20 step for re-detention. *Morrissey v. Brewer*, 408 U.S. 471, 489 (1972).

21 35. An action is an abuse of discretion if the agency "entirely failed to consider an  
22 important aspect of the problem, offered an explanation for its decision that runs counter to the  
23 evidence before the agency, or is so implausible that it could not be ascribed to a difference in  
24 view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551



1 U.S. 644, 658 (2007) (citing *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto.*  
2 *Ins. Co.*, 463 U.S. 29, 43 (1983)).

3 36. To survive an APA challenge, the agency must articulate “a satisfactory  
4 explanation” for its action, “including a rational connection between the facts found and the  
5 choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

6 37. By categorically revoking Petitioner’s freedom and bringing him into federal  
7 custody, without written notification outlining the reasons for the revocation nor making a  
8 consideration of the individualized facts and circumstances, Respondents have violated the APA.

9 38. By continuing to detain Petitioner, Respondents have further abused their  
10 discretion as there were no changes to the facts or circumstances since the agency made its initial  
11 custody determination which support his ongoing, 196-day (and counting) period of  
12 administrative custody.

13 39. Respondents previously considered Petitioner’s facts and circumstances and  
14 determined that he was neither a flight risk nor a danger to the community. The agency was  
15 correct in that assessment; Petitioner did not work without authorization, commit crimes in the  
16 United States, and took it upon himself to volunteer with a Latino-based nonprofit organization  
17 and attend ESL classes before he could work. The DHS granted him humanitarian parole and  
18 authorized his entry into the United States. There have been no changes to the facts that justify  
19 the revocation of freedom.

20 **COUNT TWO**

21 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(B)-(D)**  
22 **Not in Accordance with Law and in Excess of Statutory Authority**  
23 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

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

2 41. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is  
3 “contrary to constitutional right,” “in excess of statutory jurisdiction, authority, or limitations,”  
4 or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

5 42. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may  
6 revoke . . . parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the  
7 initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that  
8 such revocations of release from custody may only be carried out in the “discretion of the district  
9 director, acting district director, deputy district director, assistant district director for  
10 investigations, assistant district director for detention and deportation, or officer in charge  
11 (except foreign).”

12 43. It is a well-established administrative principle that “agency action taken without  
13 lawful authority is at least voidable, if not void *ab initio*.” *L.M.-M. v. Cuccinelli*, 442 F. Supp.  
14 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see*  
15 *also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating  
16 agency action because it was taken by unauthorized official).

17 44. Respondents have revoked Petitioner’s ability to live freely in the United States  
18 because of a categorical policy prepared by and implemented by government officials in  
19 Washington D.C., not by the individual exercise of discretion required by law or by the  
20 individuals enumerated by regulation to do so.

21 45. Respondents’ detention of Petitioner is not in accordance with law and exceeds  
22 their statutory authority.

**COUNT THREE**

**Violation of the Fifth Amendment Right to Procedural Due Process**

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

47. The Due Process Clause of the Fifth Amendment to the U.S. Constitution 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, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

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

49. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custodial decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *Zadvydas*, 533 U.S. at 698.

50. Although the initial decision to detain or release an individual may be at the government's discretion, “the government's decision to release an individual from custody creates ‘an implicit promise,’ upon which that individual may rely, that their liberty ‘will be revoked only if [they] fail to live up to the ... conditions [of release].’” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Thus, even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that person is released from custody, they have a protected liberty interest in remaining out of custody. *Id.* (citing *Romero v. Kaiser*, No. 22-cv-20508, 2022 WL 1443250 (N.D. Cal. May 6, 2022)) (emphasis added).



1 55. The constitutional right to counsel includes the ability to communicate effectively  
2 with one's attorney and to prepare a defense. 8 U.S.C. § 1362; *Usubakunov v. Gonzales*, 16 F.4th  
3 1299, 1304-1305 (9th Cir. 2021); *Gomez-Velazco v. Sessions*, 879 F.3d 989, 993 (9th Cir. 2018).

4 56. The Ninth Circuit has found that transferring detainees to remote locations  
5 without notifying their attorney or providing access to legal representation is a violation of the  
6 right to counsel. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565-66 (9th Cir. 1990); *see*  
7 *also Innovation Law Lab v. Nielsen*, 342 F.Supp.3d 1067, 1080 (D. Or. 2018).

8  
9 **PRAYER FOR RELIEF**

10 WHEREFORE, Petitioner respectfully requests this Court to:

- 11 1) Assume jurisdiction over this matter;
- 12 2) Issue an Order to Show Cause ordering Respondents to demonstrate why this Petition  
13 should not be granted within three days;
- 14 3) Declare that Petitioner's detention without an individualized determination violates  
15 the Due Process Clause of the Fifth Amendment;
- 16 4) Declare that Petitioner's re-detention was made in violation of statute and regulation;
- 17 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from  
18 custody;
- 19 6) Issue an Order prohibiting the Respondents from transferring Petitioner outside the  
20 district without 48 hours' advance notice to the undersigned and the Court;
- 21 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and  
22 on any other basis justified under law; and
- 23 8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: December 24<sup>th</sup>, 2025

s/ Benjamin Cornell  
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**VERIFICATION OF PETITIONER**

On behalf of Joswar Rodriguez Torres, the party in custody, I verify the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief and having reviewed the relevant records and pleadings. Mr. Rodriguez Torres has not verified the petition himself as he is currently held in ICE custody.

Dated: December 24, 2025

s/ Benjamin Cornell  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

US Attorneys  
Email: [usawaw.habeas@usdoj.gov](mailto:usawaw.habeas@usdoj.gov)

Dated: December 24, 2025

s/ Benjamin Cornell  
Benjamin Cornell, WSB #49533