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

A.M.H.,	)	File No. 3:26-cv-31
	)	
Petitioner,	)	Agency No: AX 
	)	
vs.	)	PETITION FOR HABEAS
	)	CORPUS
LAURA HERMOSILLO, Seattle Field Office	)	
Director, U.S. Immigration and Customs	)	ORAL ARGUMENT
Enforcement and Removal Operation, KRISTI	)	REQUESTED
NOEM, Secretary of Homeland Security,	)	
PAMELA BONDI, Attorney General, TODD	)	Expedited hearing requested
LYONS, Acting Director of Immigration and	)	
Customs Enforcement, U.S. DEPARTMENT	)	
OF HOMELAND SECURITY, U.S.	)	
IMMIGRATION AND CUSTOMS	)	
ENFORCEMENT, and U.S. DEPARTMENT	)	
OF JUSTICE	)	
	)	
Respondents.	)	

Petitioner seeks a writ of habeas corpus 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. Unless the assertion of jurisdiction is frivolous, the court has the power to preserve existing conditions while it determines its own authority to grant injunctive relief. See *United States v. United Mine Workers of America*, 330 U.S. 258, 293 (1947).
5. Such an order is valid unless and until overturned, even when the issuing court lacks subject-matter jurisdiction to determine the underlying action's merits. *Id.* at 293-94.
6. 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., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
7. Venue is proper because petitioner is in respondents' constructive custody in Portland, Oregon and because a substantial part of the events giving rise to his claims occurred in this district. 28 U.S.C. § 1391(e).

THE PETITIONER

8. Petitioner is a resident of the state of Oregon, and present in the state of

Oregon as of the time of filing this petition.

CUSTODY

9. 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).

10. Petitioner is “in custody” of the respondents as he is subject to reporting and check-in requirements through form I-220A, and was required to appear today at 1:30pm, that appointment was changed yesterday from 1:30pm to 2:15pm.

11. These restrictions in form I-220A include but are not limited to requirements that he report for any interviews or check-ins ordered by respondents, not change his residence without first securing written permission from respondents, and participate in an Alternatives to Detention (“ATD”) program as designated by respondents which includes electronic monitoring and can include a curfew.

12. The restrictions in form I-220A are sufficient restraints upon petitioner’s liberty to place him in custody for the purposes of habeas corpus.

13. Petitioner has been in all ways compliant with the terms of form I-220A.

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.”).

MOTION TO PROCEED ANONYMOUSLY

14. Parties may proceed anonymously when special circumstances justify secrecy. *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th Cir. 2000). In the Ninth Circuit, parties may use pseudonyms “in the unusual case when nondisclosure of the party's identity is necessary to protect a person from harassment, injury, ridicule or personal embarrassment.” *Id.* at 1067-68 (citation, ellipsis and internal quotes omitted). A party may preserve anonymity in “in special circumstances when the party's need for anonymity outweighs prejudice to the opposing party and the public's interest in knowing the party's identity.” *Id.* at 1068.

15. In this case petitioner is Somali and as such a national of a country highly disfavored by respondents. Exposure of his name could subject him to harassment and ridicule for this reason. Also, he has filed an application for asylum with EOIR and a form I-360, Petition for Special Immigrant Juvenile Status, with U.S. Citizenship and Immigration Services (“USCIS”).

16. This application for asylum contains details of petitioner's life and persecution in foreign countries because of his Somali nationality. Presenting such details in a public record would expose petitioner to potential humiliation and mental stress. Petitioner's application for Special Immigrant Juvenile Status also contains details regarding his history of neglect and abuse by his mother and his resulting placement under a new guardianship placed by the Multnomah County Court. Presenting such sensitive personal information in a public record would expose Petitioner to potential

emotional distress and harm.

THE RESPONDENTS

17. Respondent LAURA HERMOSILLO is the 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. LAURA HERMOSILLO is sued in her official capacity.

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

19. Respondent KRISTI NOEM is the Secretary of Homeland Security. As such she is responsible for the actions of that department, its subagencies, and its officers and personnel. KRISTI NOEM is sued in her official capacity.

20. Respondent PAMELA BONDI is the Attorney General of the United States, and as such 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. PAMELA BONDI is sued in her official capacity.

21. Respondent TODD LYONS is the Acting Director of ICE, and as such is responsible for the means by which the immigration laws of the United States are enforced. TODD LYONS is sued in his official capacity.

22. 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.

23. 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

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

25. Respondent DEPARTMENT OF JUSTICE maintains an adjudicatory body for immigration cases called the Executive Office for Immigration Review ("EOIR"). Part of EOIR includes the Office of the Immigration Judge, which is generally known at the Immigration Court.

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

26. Pursuant to 28 U.S.C. § 2243, a court entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

27. The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed. *Id.*

28. The person to whom the writ or order is directed shall make a return certifying the true cause of the detention. When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed. *Id.*

29. Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained. The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts. *Id.*

30. The return and all suggestions made against it may be amended, by leave of court, before or after being filed. The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require. *Id.*

31. The person to whom the writ or order is directed shall make a return certifying the true cause of the detention. When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed. *Id.*

32. Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained. *Id.*

33. The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts. *Id.*

LEGAL REQUIREMENTS

34. The Due Process Clause of the Fifth Amendment prohibits arbitrary detention by the government. Noncitizens in civil immigration custody are entitled due process

protection. See *Demore v. Kim*, 538 U.S. 510 (2003).

35. Federal regulations under 8 C.F.R. § 241.4 govern the procedures required for re-detaining a noncitizen released under an order of supervision. Under § 241.4(l), ICE must provide a written notice of revocation, an explanation of the reasons for revocation, and an opportunity for the individual to respond at an informal interview conducted promptly after re-detention.

36. Within 48 hours of an immigration arrest (or within a reasonable time in the case of emergency or extraordinary circumstances), an immigration official must make an initial custody determination to decide whether the noncitizen should remain in custody or be released. 8 U.S.C. § 1226(a); 8 C.F.R. § 287.3(d).

37. Other federal regulations at 8 C.F.R. §§ 208.31 and 241.8(e) provide that a noncitizen subject to removal to a third country must be provided with a reasonable fear screening if they express fear of persecution or torture in that country. The regulations require that such individuals be referred for an interview by an asylum officer to determine whether there is a reasonable possibility of persecution or torture.

FACTUAL ALLEGATIONS

38. On January 20, 2025, the president of the United States issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an executive order (EO) setting out a series of interior immigration enforcement actions. The present administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy,

establishing a formal framework for mass deportation.

39. The “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

40. In late May 2025, respondent KRISTI NOEM and White House Deputy Chief of Staff Stephen Miller met with ICE leadership and set an arrest quota of 3,000 per day and reportedly threatening job consequences if officials failed to meet arrest quotas.²

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

42. Following the directive from Noem and Miller, ICE agents were instructed in an email to “turn the creativity knob up to 11” and aggressively “push the envelope” in arrests, including by pursuing “collaterals.” One email is reported to have said: “If it involves handcuffs on wrists, it’s probably worth pursuing.”⁴

²Julia Ainsley, et al., A sweeping new ICE operation shows how Trump’s focus on immigration is reshaping federal law enforcement, NBC News (June 4, 2025), <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-ice-deportations-stephen-miller> (last visited Nov. 26. 2025).

³Hannity, Sean, “Stephen Miller says the admin wants to create the strongest immigration system in US History”, FOX NEWS (May 28, 2025), <https://www.foxnews.com/video/6373591405112> (last visited Nov. 26, 2025).

⁴Olivares, José , “US immigration officers ordered to arrest more people even without warrants,” The PETITION FOR HABEAS CORPUS
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GOVERNMENT THREATS AGAINST SOMALI NATIONALS

43. On Tuesday, December 2, 2025, the president of the United States called Somali nationals “garbage.”⁵ The reporting from the New York Times on December 2, 2025 (see link in footnote) was follows:

President Trump unleashed a xenophobic tirade against Somali immigrants on Tuesday, calling them “garbage” he does not want in the United States in an outburst that captured the raw nativism that has animated his approach to immigration.

Even for Mr. Trump — who has a long history of insulting Black people, particularly those from African countries — his outburst was shocking in its unapologetic bigotry. And it comes as he started a new ICE operation targeting Somalis in the Minneapolis-St. Paul region.

“These are people that do nothing but complain,” Mr. Trump said at the tail end of a cabinet meeting at the White House, during which he sometimes appeared to be fighting sleep. But when the subject turned to immigration, Mr. Trump made a point of lashing out.

“When they come from hell and they complain and do nothing but bitch, we don’t want them in our country. Let them go back to where they came from and fix it,” Mr. Trump added as Vice President JD Vance banged the table in encouragement. He said Somalia “stinks and we don’t want them in our country.” He described Representative Ilhan Omar, Democrat of

Minnesota, who came to the United States from Somalia as a refugee and became a citizen 25 years ago, as “garbage.”

“We could go one way or the other, and we’re going to go the wrong way if we keep taking in garbage into our country,” Mr. Trump said. “She’s garbage. Her friends are garbage. These aren’t people who work. These aren’t people who say, ‘Let’s go, come on, let’s make this place great.’”

Mr. Trump has used this kind of rhetoric throughout his rise in politics,

Guardian (Jun 4, 2025) <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>

⁵ NYT, Trump Calls Somalis ‘Garbage’ He Doesn’t Want in the Country -- President Trump has a history of insulting people from African countries, but the outburst was shocking in its unapologetic bigotry. Vice President JD Vance banged the table in encouragement” (Dec. 2, 2025), available at <https://www.nytimes.com/2025/12/02/us/politics/trump-somalia.html>

including in his first term as president, when he demanded to know why the United States would accept immigrants from Haiti and African nations, which he described as “shithole countries,” rather than, say, Norway.

44. Politico has recently reported that the president “later doubled down on his comments, saying Somalia ‘is considered by many to be the worst country on earth’ and that Somali immigrants have “destroyed the country.”⁶

CIRCUMSTANCES OF PETITIONER’S CASE

45. Petitioner is a Somali national. He departed Somalia on or about June 2022 due to persecution, including torture, in Somalia from the terrorist group Al-Shabaab. In May 2015, Al-Shabaab killed his father due to assumptions that he was a government spy. As a young schoolboy, the terrorist group sought to recruit him along with other schoolboys around his age in March 2019. He received death threats if he did not join this terrorist group. After a few years of evading recruitment, this group kidnapped Petitioner and his mother from their home in March 2022 and spent 9 days in captivity. He was physically assaulted daily during captivity. Petitioner and his mother were sentenced to death, according to the terrorist group. On the 9th day of captivity, they were able to escape and flee. He separated from his mother and relocated in Kenya until the death threats continued. This is when he relocated to the United States.

46. Petitioner entered the United States on or about April 1, 2023 near San Ysidro,

⁶ Politico, “Homan defends Trump after president calls Somali community ‘garbage’ -- The border czar said he ‘100 percent’ supports the president’s immigration crackdown” (Dec. 7, 2025), available at <https://www.politico.com/news/2025/12/07/homan-trump-somalis-garbage-00679831>

California. He was apprehended by agents of respondent DEPARTMENT OF HOMELAND SECURITY and issued a document on agency form I-862 entitled “Notice to Appear” (“NTA”).

47. On or about November 14, 2023, petitioner filed an application for asylum with the Executive Office of Immigration Review using agency form I-589. With the form I-589 Petitioner sent extensive supporting documentation.

48. Pursuant to an I-220A issued to respondent, petitioner has had weekly phone check ins with ICE. He has complied with each check-in.

49. On or around November 11, during one of his check ins he was informed that the check-ins would be changed to in person visits starting in 2026 and his first one would be January 7, 2026 at 1:30pm. Yesterday January 6, 2025 he received notice that his appointment has been changed to 2:15pm, at the ICE office located at 4310 S. Macadam Ave., Portland OR 97239 for a supervisory check-in.

50. The weekly check-in were before the remarks of the president describing Somali nationals as “garbage” who should not be present in this country.

51. This change to in person check-ins, after he has complied with all weekly phone check ins, was after or about the same time of the president’s description of Somali nations as “garbage.”

52. Due to restrictions placed on the ICE facility on South Macadam in Portland, ICE is unable to accommodate prisoners overnight. Instead ICE transports its prisoners by bus operated by ICE contractor GEO to the ICE detention facility in Tacoma

Washington. Usually the GEO bus departs the Portland ICE facility anytime between 1 and 3 p.m or earlier for those they are trying to avoid habeas jurisdiction for a particular person.

53. It is unusual for any person subject to an ICE check-in requirement to be accorded a particular time to appear for the check-in. Generally any time between 8:00 a.m. to 3:00 p.m. is considered to be compliant.

54. The fact that petitioner has been issued a particular check-in time, and that is so close to the usual departure of the GEO bus for Tacoma is highly consistent, together with the timing of his acceleration notice, with a plan of respondents to use the occasion of his check-in to revoke petitioner's I-220A release on recognizance and transport him to their Tacoma detention facility.

55. ICE is fully aware that many petitions for habeas corpus have been filed in response to their pattern of unlawful arrests and other violations of law in the state of Oregon. For this reason they have resorted to a variety of tactics intended to defeat the jurisdiction of the U.S. District Court of Oregon, chiefly focusing on transport of the persons arrested out of the state before a petition for habeas corpus can be filed.

56. The unusual measure of requiring petitioner to appear for an ICE check-in so close to the general time for departure of the GEO bus appears to be another strategy to limit the time in which a petition for habeas corpus can be filed on behalf of the petitioner.

57. As a result of all of the above, petitioner is filing this petition for habeas

corpus in advance of his scheduled check-in at 2:15 p.m. on January 7, 2025. If he were to wait until he is taken into physical custody at that check-in there would not be enough time to file a petition for habeas corpus.

FIRST CLAIM FOR RELIEF

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

Abuse of Discretion

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

58. Petitioner incorporates all previous allegations into this claim for relief.

59. Under the Administrative Procedures Act (“APA”) a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

60. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is 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)).

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

62. By categorically revoking his release and transferring him away from the

district. without consideration of his individualized facts and circumstances, Respondents will have violated. the APA.

63. By detaining and transferring the Petitioner categorically, Respondents will have further abused their discretion because there have been no changes to his facts or circumstances since his release on recognizance.

64. Respondents have already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of his release on his own recognizance. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

SECOND CLAIM FOR RELIEF

**Violation of the Administrative Procedures Act – 5 U.S.C. § 706(2)(A)
Not in accordance with Law and in Excess of Statutory Authority
Violation of 8 U.S.C. § 1226(b) and 8 C.F.R. 1236.1(c)(9).**

65. Petitioner incorporates all previous allegations into this claim for relief.

66. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

67. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen

under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge. (except foreign).”

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

69. On information and belief, Respondents have revoked or are revoking Petitioner’s prior custody determination because he is a Somali national, and therefore “garbage” in the eyes of the president of the United States, and not by the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

70. Because Petitioner’s revocation of parole from custody has been made or will be categorically directed by government officials not authorized by law to make this determination, respondents’ detention of Petitioner is not in accordance with law and in excess of statutory authority.

THIRD CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process of Law

71. Petitioner incorporates all previous allegations into this claim for relief.

72. 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.

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

74. While respondents have discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.

75. Here, respondents have chosen to revoke Petitioner’s release in an arbitrary

76. manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents’ intended revocation of Petitioner’s release violates his right to procedural due

PRAYER FOR RELIEF

77. 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 removing petitioner from the state of Oregon, or, if petitioner is in the state of Washington, from the state of Washington, without notice to and approval by the court;
- c) Issue an order to show cause why this petition should not be granted within three (3) days.
- d) Declare that revocation of petitioner's present release status without an individualized determination violates the Due Process Clause of the Fifth Amendment.
- e) Issue a writ of habeas corpus ordering respondents to release petitioner from custody.
- f) Award petitioner reasonable attorney 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 7th day of January 2026

/s/ Alicia Vial Beesley

OSB # 095363
Attorney for petitioner