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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Medford Division**

OM.V.A. and OR V.A. , adults.

Petitioners,

v.

LAURA HERMOSILLO, Seattle Field Office
Director, Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); TODD LYONS, Acting
Director of Immigration Customs
Enforcement ("ICE"); U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT; KRISTI
NOEM, Secretary of the Department of
Homeland Security ("DHS"); U.S.
DEPARTMENT OF HOMELAND
SECURITY; and PAMELA BONDI,
Attorney General of the United States,

Respondents.

Case No.

Agency Nos. A xxx-xxx-383
A xxx-xxx-384

**PETITION FOR WRIT OF
HABEAS CORPUS**

Expedited Hearing Requested

INTRODUCTION

1. On the morning of January 21, 2026, Petitioners were driving to work in the vicinity of Medford, Oregon, when their vehicle was pulled over by Respondents. Petitioners were taken from the vehicle, handcuffed, and placed in Respondents' vehicle.

2. Upon information and belief, Petitioners were given no explanation for the stop or the arrest. They were not shown a warrant. The stop was not based on an individualized assessment of either Petitioners' circumstances, their risk of flight, or danger.

3. "At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest." *INS v. St. Cyr*, 533 U.S. 289, 301 (2001), (*superseded on other grounds by statute as stated in Patel v. U.S. Att'y Gen.*, 971 F.3d 1258, 1270 (11th Cir. 2020)); *accord Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020).

4. Warrantless arrest without probable cause violates both 8 U.S.C. § 1357, which requires reason to believe the person "is likely to escape" before a warrant could be obtained, and ICE's own nationwide policy to which it is bound pursuant to a settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.). The settlement agreement requires (1) consideration of specific factors to determine if someone is likely to escape and (2)

documentation of these “specific particularized facts” in the I-213.¹ Pursuant to the October 7, 2025, order of the U.S. District Court for the Northern District of Illinois, Respondent ICE reissued its Broadcast of this policy (hereafter, “*Nava* Broadcast Policy”) to all ICE officers nationwide on October 22, 2025, with the instruction that the *Nava* Broadcast Policy shall remain in effect through February 2, 2026. *See id.* at Dkt. 224, 224-1 at ¶ 5.

5. Respondents’ are transporting Petitioners to the Northwest Immigration Processing Center (NWIPC) in Tacoma, WA where they will be illegally subjected to mandatory detention without access to a bond hearing pursuant to Respondents’ current policy directives and the current practice of the Tacoma Immigration Court judges in defiance of repeated federal court directives. *See Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. filed Mar. 20, 2025).

6. Accordingly, to vindicate Petitioners’ rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioners ask this Court to find that Respondents’ attempts to detain, transfer, and deport Petitioners is arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Petitioners’ transfer out of this district.

JURISDICTION

¹ Form I-213, known as a “Record of Deportable/Inadmissible [Noncitizen]” . . . is an ‘official record’ prepared by immigration officials when initially processing a person suspected of being in the United States without legal permission.” *Punin v. Garland*, 108 F.4th 114, 119 (2d Cir. 2024) (cleaned up).

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 Petitioners are in Respondents' custody in the District of Oregon. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioners' claims occurred in this District where Petitioners are now in Respondents' custody. 28 U.S.C. § 1391(e).

11. Divisional venue is proper under Local Rule 3-2 because Petitioners were taken into Respondents' custody in Jackson County, OR and a substantial part of the events or omissions giving rise to Petitioners' claims occurred in this Division.

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 the Respondents "forthwith" unless the Petitioners are not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

14. Petitioners are “in custody” for the purpose of § 2241 because they were arrested and detained by Respondents.

PARTIES

15. Petitioner OM.V.A. is 20-year-old Oregon resident and is present within the state of Oregon as of the time of the filing of this petition.²

16. Petitioner OR V.A. is a 24-year old Oregon resident and is present within the state of Oregon as of the time of the filing of this petition.

17. Respondent Laura Hermosillo is the Acting Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal

² Petitioner seeks leave to proceed anonymously because public identification creates a risk of retaliation due to Petitioners’ decision to bring this lawsuit. *See, e.g.,* Jonah Valdez, “ICE won’t rule out retaliating against immigrants who testify in free speech case,” *The Intercept* (June 7, 2025), available at <https://theintercept.com/2025/06/07/ice-deport-free-speech-aaup-rubio/> (describing ICE refusal to agree that witnesses would not be targeted for deportation or detention due to their participation in the legal case). The Ninth Circuit has identified several different situations in which parties have been permitted to proceed under a fictitious name, including “(1) when identification creates a risk of retaliatory physical or mental harm, . . . ; (2) when anonymity is necessary ‘to preserve privacy in a matter of sensitive and highly personal nature,’ . . . ; and (3) when the anonymous party is ‘compelled to admit [his or her] intention to engage in illegal conduct, thereby risking criminal prosecution.’” *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000) (collecting cases; internal citations omitted). The Petitioner would provide Petitioners’ identity to the Respondents and the Court under seal.

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 non-citizens. The Seattle Field Office’s area of responsibility includes Alaska, Oregon, and Washington. Respondent Hermosillo is a legal custodian of Petitioners.

18. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement and has authority over the actions of respondent Laura Hermosillo and ICE in general. Respondent Lyons is a legal custodian of Petitioners.

19. Respondent Kristi Noem 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 Noem is a legal custodian of Petitioners and is charged with faithfully administering the immigration laws of the United States.

20. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

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

22. Respondent U.S. Department of Homeland Security is the federal

agency that has authority over the actions of ICE and all other DHS Respondents.

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

LEGAL FRAMEWORK

24. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV.

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

26. “Except at the border and its functional equivalents,” immigration agents may stop individuals in public only after identifying “specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion” of a violation of immigration law. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *Benitez-Mendez v. I.N.S.*, 752 F.2d 1309, 1311 (9th Cir. 1983), *amended*, 760 F.2d 907 (9th Cir. 1983); *see also* 8 C.F.R. § 287.8(b)(2) (allowing officer to “briefly detain” a noncitizen for questioning if the officer “has a reasonable suspicion, based on specific articulable facts” that the noncitizen is engaged in an offense or is unlawfully in the United States).

27. Reasonable suspicion for an immigration stop cannot be based “on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the particular person to be stopped.” *United States v.*

Rodriguez Sanchez, 23 F.3d 1488, 1492 (9th Cir. 1994). Rather, reasonable suspicion must be “particularized and objective,” *United States v. Arvizu*, 534 U.S. 266, 273 (2002), meaning the officer has reasonable suspicion as to “the particular person being stopped.” *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc). Information obtained from an officer’s lawful questioning “may provide the basis for a subsequent arrest.” 8 C.F.R. § 287.8(b)(3).

28. Immigration officers may arrest an individual without a warrant in limited circumstances. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012) (noting strong Congressional preference, as expressed in INA, for immigration arrests to be based on warrants).

29. The INA permits warrantless arrest if an immigration officer has reason to believe that a noncitizen (1) is in the United States in violation of the immigration laws and (2) “is likely to escape before a warrant can be obtained for his arrest.” 8 U.S.C. § 1357(a)(2); *accord* 8 C.F.R. § 287.8(c)(2)(i)-(ii). An officer “has reason to believe” when they have the equivalent of “the constitutional requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

30. The Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. *See* U.S. Const., amend. V. *See Kastigar v. United States*, 406 U.S. 441, 444–45 (1972) (The privilege against self-incrimination “can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory . . . This Court has been zealous to safeguard the values which underlie the privilege.”). An immigration officer may not establish

probable cause on the basis of a noncitizen's silence pursuant to his Fifth Amendment rights. *See Hurd v. Terhune*, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming "the fundamental principle that a suspect's silence in the face of questioning cannot be used as evidence against him at trial").

31. If an immigration officer makes a warrantless arrest, at the time of an arrest and "as soon as it is practical and safe to do so," immigration officers must identify themselves as immigration officers authorized to make arrests, inform the person arrested that they are under arrest, and state the reason for the arrest. 8 C.F.R. § 287.8(c)(2)(iii). The noncitizen must then "be taken without unnecessary delay for examination before an officer of the Service having authority to examine [noncitizens] as to their right to enter or remain in the United States." 8 U.S.C. § 1357(a)(2).

32. ICE is bound not only by statute and due process, but also by its national policy adopted pursuant to settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.) at 13. Under this policy, ICE must consider a delineated list of factors before making an arrest, including (a) the officer's ability to determine the individual's identity; (b) knowledge of the individual's prior escapes or evasions of immigration authorities; (c) the individual's attempts to flee to avoid being discovered by immigration officers; and (d) the individual's ties to the community, such as a family, home, or employment. Settlement Agreement,³ *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-

³ available at <https://immigrantjustice.org/sites/default/files/content->

3757 (N.D. Ill.). Respondent ICE reissued its Broadcast of this policy (hereafter, “*Nava* Broadcast Policy”) to all ICE officers nationwide on October 22, 2025, with the instruction that the *Nava* Broadcast Policy shall remain in effect through February 2, 2026. *See id.* at Dkt. 224, 224-1 at ¶ 5.

FACTUAL BACKGROUND

Respondents’ Detention and Deportation Policies

33. On January 20, 2025, President Donald Trump 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 Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. 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.

34. In late May, Respondent Secretary Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per day and reportedly threatening job consequences if officials failed to meet arrest quotas.⁴

[type/page/documents/2025-01/Nava Settlement ICE Warrantless Arrest-Vehicle Stop Policy 2021.pdf](#)

⁴ Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant Crackdown*, The Wall Street Journal (June 9, 2025), <https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877>; Julia Ainsley, et al., *A*

35. On May 28, 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.”⁵

36. Following the directive from Noem and Miller, ICE agents were instructed in an e-mail to “turn the creativity knob up to 11” and aggressively “push the envelope” in arrests, including by pursuing “collaterals”—individuals who by definition would not have warrants.⁶ As another e-mail put it: “If it involves handcuffs on wrists, it’s probably worth pursuing.”⁷

37. The overriding message, communicated by and to Respondents, is that agents and officers carrying out immigration operations on the ground must prioritize arrest numbers, regardless of the law. As one ICE official put it earlier this year, all that matters is “numbers, pure numbers, [q]uantity over quality.”⁸

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-immigration-reshape-federal-lawenforcement-rcna193494>; 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>.

⁵ Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US History*, FOX NEWS (May 28, 2025), available at <https://www.foxnews.com/video/6373591405112> (last visited Aug. 24, 2025).

⁶ José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The Guardian (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

⁷ José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The Guardian (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

⁸ Jennie Taer, *Trump admin’s 3,000 ICE arrests per day quota is taking focus off criminals and ‘killing morale’: insiders warn*, NY Post, June 17, 2025,

38. Respondents have adopted a policy and novel legal interpretation requiring that all noncitizens who entered the U.S. unlawfully are subject to mandatory detention under 8 U.S.C. § 1225(b). This represented a radical change of policy, practice, and law that has not withstood the dozens of legal challenges brought across the country. *See J.Y.L.C. v. Bostock*, 2025 WL 3169865, at *2 (D. Or. Nov. 12, 2025) (listing dozens of district court orders rejecting same “dubious” interpretation of § 1225(b)).

39. Judges in this District have similarly found that a noncitizen already present in the United States cannot be lawfully detained under §1225(b). *See e.g. Guzman v. Weiss*, 6:25-cv-012146-MC, ECF No. 12.

40. Despite the overwhelming rejection by the courts, Respondents continue to assert the correctness of their version of the law. And the immigration judges in the Tacoma detention center continue to deny bond hearings on that basis, in defiance of district court orders.

41. Respondents are transporting Petitioners to Tacoma where they know they will be subject to mandatory detention without a bond hearing.

Petitioners’ Background and Arrest

42. Petitioner OM.V.A. is 20-years old and lives in Medford, OR. He and his

<https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/>, <https://perma.cc/DB9R-MJUC> (last visited Oct. 15, 2025) (“The Trump administration’s mandate to arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets, sources said. ‘All that matters is numbers, pure numbers. Quantity over quality,’ one Immigrations and Customs Enforcement insider told The Post.”).

partner have an almost-one year old son who requires constant medical care for issues including cataracts for which he has had multiple surgeries at OHSU and global developmental delay due to complications at birth. Mr. O.M. V.A. is the sole provider for his partner and child.

43. Petitioner OR V.A. is 24-years-old and lives in Medford, OR. He is the brother and legal guardian of OM V.A.

44. On the morning of January 21, 2026, Petitioners were driving to work. An otherwise unmarked vehicle behind them put its lights on and pulled them over. O.R. V.A. gave the officers his driver's license and insurance.

45. On information and belief, at no point during the stop did any agent produce a warrant, explain why Petitioners had been stopped initially, or provide any documents of any kind.

46. On information and belief, at no point during the stop did any agent provide their name or badge number to Petitioners or advise Petitioners that they were immigration officials authorized to make immigration arrests.

47. On information and belief, at no point during the stops did any agent ask Petitioners any questions about their family, employment, or community ties.

48. On information and belief, at no time during the stops did any officer conduct an individualized assessment of whether either Petitioner was a flight risk.

49. On information and belief, at no time during the stop did any officer

conduct an individualized assessment of whether either Petitioner was a danger to the community.

50. On information and belief, Respondents detained and are seeking to transfer Petitioners regardless of the individual facts and circumstances of their case.

51. Petitioners will be transferred to the Northwest Immigration Processing Center (NWIPC) in Tacoma, WA where they will be illegally subjected to mandatory detention without access to a bond hearing pursuant to Respondents' current policy directives and the current practice of the Tacoma Immigration Court judges in defiance of repeated federal court directives.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fourth Amendment of the United States Constitution Unreasonable Seizure

52. Petitioners realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

53. Except at the border and its functional equivalents, the Fourth Amendment to the U.S. Constitution prohibits Respondents from conducting a detentive stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States. Likewise, the Fourth Amendment prohibits Respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

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54. “A person’s mere propinquity to others independently suspected of [unlawful] activity does not, without more, give rise to probable cause to search [or seize] that person.” *Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted). “‘Reasonable suspicion’ is no different.” *Id.*

55. Race or apparent ethnicity, standing alone, cannot form the basis for reasonable suspicion. *United States v. Brignoni-Ponce*, 422 U.S. 873, 886-87 (1975). Because probable cause is a more demanding standard than reasonable suspicion, race or apparent ethnicity, standing alone, is also necessarily insufficient to form the basis for probable cause.

56. Respondents’ stop and arrest of Petitioners without reasonable suspicion, and arrest of Petitioners without probable cause, violate the Fourth Amendment to the U.S. Constitution.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Violation of 8 C.F.R. § 287.8(c)(2)(ii) Detentive Stop Without Reasonable Suspicion

57. Petitioners reallege and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

58. Under the 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).

59. 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)).

60. 8 C.F.R. § 287.8(b)(2) requires that before detaining an individual for questioning, an immigration officer must have “a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States.”

61. Respondents’ detentive stop of Petitioners, without any reasonable suspicion of a qualifying offense, violates the APA and Respondents’ authority under 8 C.F.R. § 287.8(c)(2).

62. Separate from the APA, Respondents’ detention of Petitioners without any reasonable suspicion is *ultra vires*.

COUNT THREE

**Violation of the Administrative Procedure Act – 5 U.S.C. §
706(2)(A) Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. §
287.8(c)(2)(i)
Warrantless Arrest Without Probable Cause of
Immigration Violation**

63. Petitioners realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

64. Under the APA, a court shall “hold unlawful and set aside 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).

65. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has “reason to believe” that an individual is in the United States in violation of the immigration laws *and* is likely to escape. A “reason to believe” is equivalent to “the constitutional requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

66. 8 C.F.R. § 287.8(c)(2)(i) requires that before making a warrantless arrest, an immigration officer must have probable cause “to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States.”

67. Because criminal penalties may attach to some immigration offenses, the Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. *See* U.S. Const., amend. V. An immigration officer may not establish probable cause on the basis of a noncitizen’s silence pursuant to his Fifth Amendment rights. *See Hurd v. Terhune*, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming “the fundamental principle that a suspect’s silence in the face of questioning cannot be used as evidence against him at trial”).

COUNT FOUR

**Violation of the Administrative Procedure Act – 5 U.S.C.
§ 706(2)(A) Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. §
287.8(c)(2)(ii) Warrantless Arrest Without Probable**

Cause of Likelihood of Escape

68. Petitioners reallege and incorporate by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

69. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has “reason to believe” that an individual is “likely to escape before a warrant can be obtained for [their] arrest.” To meet this requirement, officers must have “grounds for a reasonable belief that they were particularly likely to escape.” *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995). A “reason to believe” is equivalent to “the constitutional requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

70. 8 C.F.R. § 287.8(c)(2)(ii) requires that before making a warrantless arrest, an immigration officer must make an individualized determination that an individual is “likely to escape before a warrant can be obtained.”

71. Respondents’ warrantless arrest of Petitioners without an individualized determination that Petitioners were “likely to escape” before a warrant is issued is “final agency action” that is “in excess of statutory jurisdiction, authority, or limitations” under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

72. Separate from the APA, Respondents’ warrantless arrest of Petitioners without probable cause that Petitioners were likely to escape before a warrant could be obtained is *ultra vires*.

COUNT FIVE

**Violation of the Administrative Procedure Act – 5 U.S.C. §
706(2)(A)
Violations of the *Accardi* Doctrine
Violations of *Nava* Broadcast Policy on Warrantless ICE Arrests and
Vehicle Stops**

73. Petitioners realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

74. The APA authorizes this Court to set aside agency action that is “arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

75. Respondent ICE is bound by the *Nava* Broadcast Policy, pursuant to the *Castañon Nava* settlement agreement, to consider a delineated set of factors before effectuating a warrantless arrest. In particular, before concluding whether or not the person is at risk of fleeing before a warrant is obtained, ICE must consider “the totality of circumstances,” including the following factors: “the ICE Officer’s ability to determine the individual’s identity, knowledge of that individual’s prior escapes or evasions of immigration authorities, attempted flight from an ICE Officer, ties to the community (such as a family, home, or employment) or lack thereof, or other specific circumstances that weigh in favor or against a reasonable belief that the subject is likely to abscond.” Settlement Agreement, *Castañon Nava et al. v. Dep’t of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), available at [https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava Settlement ICE Warrantless Arrest-Vehicle Stop Policy 2021.pdf](https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava%20Settlement%20ICE%20Warrantless%20Arrest-Vehicle%20Stop%20Policy%202021.pdf).

76. Moreover, ICE Officers “may stop a vehicle to enforce civil immigration laws only if they are aware of specific, articulable facts that reasonably warrant suspicion that the vehicle contains an [noncitizen] who may be illegally in the country.” *Id.*

77. Pursuant to the October 7, 2025, order of the U.S. District Court for the Northern District of Illinois, Respondent ICE reissued the *Nava* Broadcast Policy to all ICE officers nationwide on October 22, 2025, with the instruction that the *Nava* Broadcast Policy shall remain in effect through February 2, 2026. *See Castañon Nava et al. v. Dep’t of Homeland Sec.*, No. 18- cv-3757 (N.D. Ill.) at Dkt. 224, 224-1 at ¶ 5.

COUNT SIX

Violation of Fifth Amendment Right to Due Process Procedural Due Process

78. Petitioners realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

79. 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 v. Davis*, 533 U.S. 678, 693 (2001).

80. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 756-757 (9th Cir. 2007). Due process

also requires notice and “the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)); *Trimble*, 487 F.3d at 756-757.

81. Here, Petitioners have been stopped, arrested, and detained in an arbitrary manner, without any notice of the basis for Petitioners’ arrest and continued detention, and not based on a rational and individualized determination of whether Petitioners should be detained based on the individual facts and circumstances pertaining to whether Petitioners were a flight risk or danger.

82. Respondents’ stop, arrest, and continued detention of Petitioners violates Petitioners’ due process rights under the Fifth Amendment to the U.S. Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an immediate Order prohibiting the Respondents from transferring Petitioners from the District of Oregon without notice to and approval by the Court;
- (3) If Respondents have already transferred Petitioners out of the District, issue a written Order prohibiting Respondents from transferring Petitioners anywhere farther from the District than the Tacoma Northwest Detention Center in Tacoma, Washington. If Petitioners

have already been lodged at the Tacoma center, NOT to transfer them anywhere else, with the exception of back to the District;

- (4) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (5) Declare that Petitioners' defective stops without reasonable suspicion violate the APA, the INA, and the Fourth Amendment;
- (6) Declare that Petitioners' warrantless arrests without probable cause violate the Fourth Amendment, the APA, the INA, and implementing regulations;
- (7) Declare that Petitioners' warrantless arrests and traffic stops without reasonable suspicion violate Respondents' nationwide *Nava* Broadcast Policy;
- (8) Declare that Petitioners' deprivation of liberty through their unlawful stops and arrests violate the Due Process Clause of the Fifth Amendment;
- (9) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (10) Issue an Order that Respondents proceed in this action maintaining Petitioners' anonymity, using only initials as the name, and redacting or removing all personally identifying information from documents filed with the court;
- (11) Order Respondents to make Petitioner available for a three-hour

telephonic visit with their counsel within two business days of when the petition was filed, between 9am – 5pm, and that Respondents must give Petitioners' counsel advance notice of at least two hours to arrange for interpretation. If Respondents fail to make Petitioner available telephonically as ordered, to release Petitioner from custody and transport them to Eugene, Oregon, to pursue conferring with their counsel.

- (12) Award Petitioner attorneys' fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (13) Grant any further relief this Court deems just and proper.

Dated: January 21, 2026.

s/ Stacy Taeuber

Stacy Taeuber OSB 254616