MICHAEL T. PURCELL, OSB #853094
Attorney at Law
P.O. Box 14209
Portland, OR 97293
(503) 241-8203
mpurcell.law@gmail.com

Attorney for petitioner.

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

ROLMA TURENNE Petitioner, vs. LAURA HERMOSILLO, Seattle Field Office Director, U.S. Immigration and Customs Enforcement and Removal Operation, KRISTI NOEM, Secretary of Homeland Security, PAMELA BONDI, Attorney General, TODD 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.	)	File No. **PETITION FOR HABEAS CORPUS** ORAL ARGUMENT REQUESTED Expedited hearing requested

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). 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.

5. 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).

6. Venue is proper because petitioners are in Respondents' constructive custody in Portland, Oregon and because a substantial part of the events giving rise to their claims occurred in this district. 28 U.S.C. § 1391(e).

THE PETITIONER

7. Petitioner is a resident of the state of Oregon, and, on information and belief,

present in the state of Oregon as of the time of filing this petition.

CUSTODY

8. 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).

9. Petitioner is "in custody" of the respondents because he was arrested in Portland, Oregon at about 3:30 p.m.

THE RESPONDENTS

10. Respondent LAURA HERMOSILLA 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 HERMOSILLA is sued in her official capacity.

11. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Consequently, respondent LAURA HERMOSILLA is the immediate legal

[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.").

custodian of petitioners.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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

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

18. 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

19. 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.

20. 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.*

21. 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.*

22. 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.*

23. 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.*

24. 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.*

25. 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.*

26. 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 FOR STOPS AND ARRESTS

27. Under 8 U.S.C. § 1226(a), on an administrative warrant ("ICE warrant"), a non-citizen may be arrested and detained pending a decision on whether the person is to be removed from the United States.

28. Except for persons described in section 1226(c), relating to certain criminal or terrorism grounds, ICE may release the person either on a bond of at least $1,500 or on conditional parole.[2] 8 U.S.C. § 1226(a) (1) and (2). ICE may revoke a bond or parole authorized under subsection (a), and rearrest the person under the original warrant, and detain that person. U.S.C. §1226(b).

29. Under 8 U.S.C. § 1357(a)(2), without an ICE warrant, an ICE officer may make an arrest for civil immigration violations in only two circumstances[3].

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[2] Here the term "conditional parole" means "release on recognizance." *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, _____ (9th Cir. 2007).

[3] Separate provisions permit warrantless arrests in certain circumstances on charges of criminal law violations. 8 U.S.C. § 1357(a)(4)-(5). If that is done, DHS regulations require that the person arrested

30. First, the officer may arrest someone, who, in the view or presence of the officer, is entering or attempting the United States illegally. *Id.*

31. Second, the officer may arrest someone whom the officer has "reason to believe"[4] is in the United States in violation of any immigration law or regulation and who is likely to escape before a warrant can be obtained for arrest. *Id.*[5]

32. 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.

33. 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).

34. "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).

35. Reasonable suspicion for an immigration stop cannot be based "on broad profiles which cast suspicion on entire categories of people without any individualized

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be advised of their legal rights in a language the person understands and brought without unreasonable delay before a U.S. magistrate. 8 C.F.R. § 287.8(c)(2)(iv) and (v).

[4] 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).

[5] See 8 C.F.R. 287.8(c)(2)(ii) ("A warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained."

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).

36. The Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. 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.").

37. 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").

38. 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).

39. 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).

40. 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).

RESPONDENTS' POLICY

41. 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.

42. 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.

43. In late May 2025, respondent KRISTI NOEM and White House Deputy Chief of Staff Stephen Miller met with ICE leadership and set a arrest quota of 3,000 per day and reportedly threatening job consequences if officials failed to meet arrest quotas.[6]

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[6]Julia 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).

44. 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."[7]

45. 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.".[8]

46. CIRCUMSTANCES OF PETITIONER'S CASE

47. Petitioner has been a resident of the United States for 22 years. He has three children. Two of these children are citizens of the United States. Petitioner, on information and belief, was arrested without probable cause by agents of the respondents on January 22, 2026 in southeast Portland. Respondents did not make an individualized determination that petitioner was a flight risk or a danger to the community..

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fourth Amendment of the United States Constitution

[7]Hannity, 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).

[8]Olivares, José , "US immigration officers ordered to arrest more people even without warrants," The Guardian (Jun 4, 2025) https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests

Unreasonable Seizure

48. Petitioner restates all previous allegations as part of this count.

49. Except at the border and its functional equivalents, the Fourth Amendment prohibits respondents from stopping a person without reasonable suspicion to question as to whether he or she is unlawfully in the United States. The Fourth Amendment bars respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

50. "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.*

51. Respondents' stop of petitioner without reasonable suspicion, and arrest of without probable cause, violates the Fourth Amendment to the U.S. Constitution.

COUNT TWO

Seizure based solely on race

52. Petitioner restates all previous allegations as part of this count.

53. 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 higher standard than reasonable suspicion, race or apparent ethnicity, standing alone, is also necessarily insufficient to form the basis for probable cause. Respondents had no basis to detain Petitioner and inquire about his immigration

status other than his race and apparent ethnicity. Likewise, Respondents had no basis to arrest Petitioner other than his race and apparent ethnicity. This was violation of the Fourth Amendment.

COUNT THREE

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

Violation of 8 C.F.R. § 287.8(c)(2)(ii)

Stop and Detention Without Reasonable Suspicion

54. Petitioner restates all previous allegations as part of this count.

55. Under the APA, a court shall "hold unlawful and set aside agency action" that is not in accordance with law or an abuse of discretion. 5 U.S.C. § 706(2)(A).

56. Under the APA, a court shall "hold unlawful and set aside agency action" that is not in accordance with law or an abuse of discretion. 5 U.S.C. § 706(2)(A).

57. 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)).

58. Before detaining someone 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." 8 C.F.R. § 287.8(c)(2)(ii)

59. Respondents' stop and detention of Petitioner without reasonable suspicion of a qualifying offense violates the APA and 8 C.F.R. § 287.8(c)(2).

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)(i)

Warrantless Arrest Without Probable Cause of Immigration Violation

60. Petitioner restates all previous allegations as part of this count.

61. Under the APA a court shall "hold unlawful and set aside 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).

62. By statute, to make a warrantless arrest, an immigration officer must have "reason to believe" the person is in the United States in violation of the immigration laws. 8 U.S.C. § 1357(a)(2). 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).[9]

63. Because respondents arrested petitioner without a warrant, and without reason to believe that he was present in the United States in violation of the immigration laws,

[9] Because criminal penalties may attach to immigration offenses, the Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. U.S. Const. amend V. An immigration officer may not establish probable cause from someone's silence on Fifth Amendment grounds. *Herd v. Terhune*, 619 F.3d 1080,1088 (9th Cir. 2010).

the arrest of petitioner was unlawful.

COUNT FIVE

Violation of the Administrative Procedures 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 and Likelihood of Escape

64. Petitioner restates all previous allegations as part of this count.

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 "likely to escape before a warrant can be obtained for his arrest." 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)(ii) requires that before making, an immigration officer must make an individualized determination that an individual is "likely to escape before a warrant can be obtained."

67. Respondents arrested petitioner without making such a determination. This was "final agency action" that was "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2).

COUNT SIX

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

Violation of 8 U.S.C. § 1357(a)(2), 8 U.S.C. § 1226(a), 8 C.F.R. § 287.3(d)

Failure to Make a Custody Determination Within 48 Hours

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

69. Following a warrantless arrest, 8 U.S.C. § 1357(a)(2) requires that the individual arrested "shall be taken without unnecessary delay" for further consideration of "their right to enter or remain in the United States".

70. Absent emergency or extraordinary circumstances, 8 C.F.R. § 287.3(d) requires that within 48 hours of a warrantless immigration arrest, an immigration officer must make an individualized custody determination as to whether the noncitizen should remain in custody or be released. See 8 U.S.C. § 1226(a) (granting statutory authority to continue detention following an immigration arrest).

71. The custody determination is recorded in the Form I-286, "Notice of Custody Determination." These procedures are essential to protect the arrested person's Fourth Amendment and Fifth Amendment rights.

72. Respondents' continued detention of Petitioner without any individualized custody determination 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).

COUNT SEVEN

Violation of Fourth Amendment to the U.S. Constitution

Failure to Justify Continued Detention

73. Petitioner restates all previous allegations as part of this count.

74. A person who is arrested and placed in immigration detention is

constitutionally entitled to a prompt probable cause determination by a neutral officer to justify. their continued detention. *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 824 (9th Cir. 2020).

75. Since his arrest, upon information and belief, no warrant has been issued and no individualized custody determination has occurred purporting to justify his continued detention. See 8 C.F.R. § 287.3(d).

76. Respondents' continued detention of Petitioner without probable cause to justify his detention violates the Fourth Amendment to the U.S. Constitution.

77. Respondents' continued detention of Petitioner without probable cause to justify his detention violates the Fourth Amendment to the U.S. Constitution.

COUNT EIGHT

Violation of Fifth Amendment Right to Due Process

78. Petitioner restates all previous allegations as part of this count.

79. The Due Process Clause of the Fifth Amendment prohibits the 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 *United States v. Trimble*, 487 F.3d 752, 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)).

81. Petitioner has been stopped, arrested, and detained arbitrarily, without any notice of the basis for his arrest and continued detention, and not based on a rational and individualized determination of whether he should be detained based on individual facts and circumstances pertaining to whether he was a flight risk or danger to the community.

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

PRAYER FOR RELIEF

83. WHEREFORE petitioner prays for relief as follows in that this court:

a. Assume jurisdiction in this matter;

b. Issue an immediate order barring respondents from removing petitioner from the state of Washington, without notice to the court 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 petitioner's stop and arrest without reasonable suspicion, and petitioner's continued detention, violates applicable regulations, the INA, and the Fourth and Fifth Amendments to the Constitution of the United States.

e. Issue a writ of habeas corpus ordering respondents to release petitioner from custody.

f. Award petitioner reasonable attorneys 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 22nd day of January 2026

/s/ Michael T. Purcell

MICHAEL T. PURCELL
WSBA #20707
Attorney for petitioner
P.O. Box 14209
Portland, OR 97293
(503) 241-8203
mpurcell.law@gmail.com