

Rebecca Hillstrom OSB # 224211
Immigration Counseling Service
P.O. Box 40248
Portland, OR 97240
Phone 503-221-1689
bhillstrom@ics-law.org

Attorney for Petitioner

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

A.S.S.

Petitioner

v.

JULIO S. HERNANDEZ, Portland Field Office
Director, U.S. Immigration and Customs
Enforcement and Removal Operation,
MARKWAYNE MULLIN, Secretary of
Homeland Security, TODD BLANCHE,
Attorney General, U.S. DEPARTMENT OF
HOMELAND SECURITY, U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT, and U.S. DEPARTMENT
OF JUSTICE

Respondents

Case No.

Agency No: A#

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION AND FACTUAL BACKGROUND

1. This case challenges the unlawful re-detention of Petitioner, Mr. A.S.S., a forty-four-year-old national of Mexico, now held in the Respondents' custody at U.S. Immigration and Customs Enforcement in Portland, Oregon.

2. Mr. A.S.S. came to the United States in February of 2001, when he was 19 years old. On August 6, 2005, he married his U.S. citizen spouse. Together, they have three biological U.S. citizen children ages 19, 17, and 14. They also have legal guardianship of one child, 13 years old, whom they have cared for since he was three months old.

3. On July 23, 2015, Mr. A.S.S. was arrested for Driving Under the Influence (DUI)- RCW 46.61.502 in the state of Washington. He was convicted of DUI on December 9, 2015. His sentence was 364 days jail time, 363 days suspended, 15 days electronic home monitoring, 60 days probation and \$5,000.00 fine. Mr. A.S.S. was ordered to install an Ignition Interlock device on his vehicle and test his blood alcohol level prior to driving.

4. In resolution of the 2015 charges, Mr. A.S.S. completed a course with the Washington Alcohol and Other Drug Information School. He completed a Victim's Impact Panel. He completed probation and alcohol and drug evaluation. He also paid the required fine.

1 5. On June 18, 2016, Mr. A.S.S was arrested for an Ignition Interlock Violation
2 RCW 46.20.740, for failing to install the Ignition Interlock device on his vehicle.
3 In this instance, Mr. A.S.S. was not driving under the influence. He was sentenced
4 to 364 days jail time, 362 days suspended, 15 days electronic home monitoring, 24
5 months bench probation, \$5,000.00 fine, \$4,750.00 suspended.
6

7 6. On June 20, 2016, Skamania County jail referred his case to U.S.
8 Immigration and Customs Enforcement (ICE).
9

10 7. On October 6, 2016, Mr. A.S.S. was arrested by Deportation Officers
11 outside the Skamania County Court House located in Stevenson, Washington. ICE
12 issued Mr. A.S.S. Form I-862, dated October 6, 2016, and thereby initiated formal
13 removal proceedings against him. Mr. A.S.S. was then transferred to the Northwest
14 Immigrant Processing Center, Respondents' immigrant detention center in
15 Tacoma, Washington.
16

17 8. On November 16, 2016, Mr. A.S.S. was issued a bond by the Immigration
18 Judge in the amount of \$15,000.00. He was also required to comply with scheduled
19 check-ins at the ICE Field Office.
20

21 9. To date, Mr. A.S.S. has not missed any hearings with the Immigration Court
22 nor any scheduled check-in appointments with ICE.
23

24 10. On July 24, 2017, Mr. A.S.S. was traveling by Greyhound from his
25 place of employment in Montana to his home in Washington. When Mr. A.S.S.
26

1 exited the bus, he was stopped by U.S. Customs and Border Patrol officers and
2 questioned about his immigration status. Mr. A.S.S. remained silent and presented
3 the officers with a "Know Your Rights" card. The agents detained and held Mr.
4 A.S.S. for several hours. The agents released Mr. A.S.S. after discovering that his
5 case was pending with the Immigration Court. The officers then abandoned Mr.
6 A.S.S. at the Greyhound station. Mr. A.S.S. brought a claim against CBP under the
7 Federal Torts Claim Act. The parties reached a settlement in 2020.
8
9

10 11. Mr. A.S.S. filed a Cancellation of Removal application with the
11 Portland Immigration Court on June 28, 2018. A hearing was held on January 24,
12 2022, for decision on the application. At the hearing, the Immigration Judge
13 declined to issue a ruling on the application stating that the annual cap for visas
14 had already been met. The judge deferred the adjudication until such date that a
15 visa would be immediately available. Mr. A.S.S. has a hearing scheduled with the
16 Portland Immigration Court on August 19, 2026, for a final decision on this
17 application.
18
19

20 12. On December 9, 2021, Mr. A.S.S. submitted Form I-918, Application
21 for U Nonimmigrant Status, to U.S. Citizenship and Immigration Services
22 (USCIS). USCIS offers this status to individuals who have been helpful to law
23 enforcement or prosecutors in connection with an enumerated list of crimes. If
24 USCIS approves this application, Mr. A.S.S. will become eligible to apply for
25

1 Lawful Permanent Residency and a “greencard.” In this case, Mr. A.S.S. assisted
2 the government with a case involving [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 13. On December 13, 2024, Mr. A.S.S. was arrested for Driving Under
6 the Influence, Idaho Code 18-8004 (DUI) in the state of Idaho. He was convicted
7 on January 10, 2025. He was sentenced to 12 months’ probation, 16 hours of
8 community service, 90 days suspended driving privileges, and \$750.00 fine.
9

10 14. In resolution of this incident, Mr. A.S.S. completed probation. He
11 completed the required community service. He completed a Victim Impact Panel.
12 He began attending Alcoholics Anonymous (AA) meetings, and to date continues
13 attending. He also paid the required fine.
14

15 15. On May 11, 2026, the Immigration Court issued a Notice of Hearing
16 scheduling a final merits hearing on Mr. A.S.S.’s Cancellation of Removal
17 application for August 19, 2026. If, Mr. A.S.S.’s Cancellation of Removal
18 application is approved he will receive Lawful Permanent Residence and a
19 “greencard.” Conversely, if the application is denied, the Immigration Judge will
20 order Mr. A.S.S. removed from the United States.
21

22 16. On June 22, 2026, Mr. A.S.S. received a notice from ICE scheduling a
23 check-in appointment for July 22, 2026, in Portland Oregon. Mr. A.S.S. fears that
24
25

1 Respondents will physically detain him at the check-in and revoke his parolee
2 status without notice or an opportunity to be heard.

3 17. Mr. A.S.S. asserts that due process requires an individualized hearing
4 prior to the government's decision to terminate his liberty. *Y-L-Z-H v. Bostock*, 792
5 F. Supp 3d. 1123, 1138 (D. Or. 2025) ("Common sense suggests . . . that parole
6 given only on a case-by-case basis is to be terminated only on [an individualized]
7 basis.")
8

9 18. That Mr. A.S.S. was arrested for DUI in December 2024 does not
10 alter the requirement that he should be afforded pre-deprivation due process prior
11 to his re-detention more than twelve months later, in July 2026. *See Singh v. Bondi*
12 *et. al.*, No. C26-0598-SKV, 2026 WL 747104, at *3 (W.D. Wash. Mar. 17, 2026)
13 ("With respect to public safety concerns triggered by Petitioner's [DUI] arrest,
14 Respondents point to no exigency that required Petitioner's immediate re-
15 detention, especially in view of the City of Yakima's decision to release him
16 without charges seven weeks prior"); *Jimenez Carrion v. Hermosillo et. al.*, No.
17 2:26-cv-00694-JNW, 2026 WL 850753, at *3 (W.D. Wash. Mar 27, 2026)
18 ("Nothing prevented ICE from scheduling a hearing before or promptly after her
19 December check-in . . . the two-month gap between the October arrest and the
20 December re-detention undermines any claims of urgency.")
21
22
23
24
25

1 19. Accordingly, Mr. A.S.S. seeks the grant of this petition for writ of
2 habeas corpus and order for his immediate release. *E.A. T.-B. v. Wamsley*, 795 F.
3 Supp 3d. 1316 at 1324 (W.D. Wash. Aug. 19, 2025) (ordering immediate release
4 because “a post-deprivation hearing cannot serve as an adequate procedural
5 safeguard because it is after the fact and cannot prevent an erroneous deprivation
6 of liberty”).

8 MOTION TO PROCEED ANONYMOUSLY

9
10 20. Parties may proceed anonymously when special circumstances justify
11 secrecy. *Does v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th Cir. 2000). In
12 the Ninth Circuit, parties may use pseudonyms “in the unusual case when
13 nondisclosure of the party's identity is necessary to protect a person from
14 harassment, injury, ridicule or personal embarrassment.” *Id.* at 1067-68 (citation,
15 ellipsis and internal quotes omitted). A party may preserve anonymity in “in
16 special circumstances when the party's need for anonymity outweighs prejudice to
17 the opposing party and the public's interest in knowing the party's identity.” *Id.* at
18 1068.
19

20
21 21. The following special circumstances justify the petitioner in
22 proceeding anonymously: Mr. A.S.S. is the father of 

23
24
25  Proceeding anonymously would protect the identity of Mr. A.S.S.’s

1 daughters as well as shield the rest of his family from unwanted attention.

2 PARTIES

3 22. Mr. A.S.S. is a native and citizen of Mexico, presently held at the ICE
4 Field Office in Portland, Oregon.

5 23. Respondent JULIO S. HERNANDEZ is the Field Office Director for
6 the Portland Field Office, Immigration and Customs Enforcement and Removal
7 Operations. The Portland Field Office is responsible for local custody decisions
8 relating to non-citizens charged with being removable from the United States,
9 including the arrest, detention, and custody status of noncitizens. Consequently,
10 Respondent JULIO S. HERNANDEZ is the immediate legal custodian of
11 Petitioner. JULIO S. HERNANDEZ is sued in his official capacity.

12 24. Respondent MARKWAYNE MULLIN is the Secretary of Homeland
13 Security. As such he is responsible for the actions of that department, its
14 subagencies, and its officers and personnel. MARKWAYNE MULLIN is sued in
15 his official capacity.

16 25. Respondent TODD BLANCHE is the Attorney General of the United
17 States, and as such has responsibility for the conduct and operations of the
18 Department of Justice and all of its officers and personnel, including the Executive
19 Office for Immigration Review. TODD BLANCHE is sued in his official
20 capacity.

1 26. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY is
2 an agency of the United States with responsibility for the enforcement of the
3 nation's immigration laws. It is under the direction of Respondent
4 MARKWAYNE MULLIN.
5

6 27. Respondent U.S. DEPARTMENT OF JUSTICE is an agency of the
7 United States and is under the direction of Respondent TODD BLANCHE.
8

9 28. Respondent DEPARTMENT OF JUSTICE maintains an adjudicatory
10 body for immigration cases called the Executive Office for Immigration Review
11 ("EOIR"). Part of EOIR includes the Office of the Immigration Judge, which is
12 generally known at the Immigration Court.
13

14 JURISDICTION AND VENUE

15 29. This action arises under the Constitution of the United States and the
16 Immigration and Nationality Act (INA). 8 U.S.C. § 1101 et. seq.
17

18 30. The Court holds subject matter jurisdiction under 28 U.S.C. § 2241
19 (habeas corpus), and 28 U.S.C. § 1331 (federal question).
20

21 31. Venue is appropriate because the Petitioner is detained in this judicial
22 district. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500
23 (1973).
24

25 32. Venue is also properly with this Court under 28 U.S.C. § 1391(e)
because Respondents are employees, officers, and agencies of the United States,
26

1 and a substantial part of the events or omissions giving rise to this petition have
2 occurred in the District of Oregon.

3 33. For the same reasons, divisional venue is proper under Local Rule 3-
4 2.
5

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

7 34. Under 28 U.S.C. § 2241(c), only persons “in custody” may apply for a
8 writ of habeas corpus.
9

10 35. Custody includes either physical custody or constructive custody.
11 *Jones v. Cunningham*, 371 U.S. 236, 240, 83 S. Ct. 373, 9 L. Ed. 2D 285 (1963)
12 (“[B]esides physical imprisonment, there are other restraints on a man's liberty,
13 restraints not shared by the public generally, which have been thought sufficient in
14 the English-speaking world to support the issuance of habeas corpus.”).
15 Specifically, the Supreme Court has found that parolees are in constructive
16 custody. *Id.*
17

18 36. Given his status as a parolee, Mr. A.S.S. is in the constructive custody
19 of the Respondents.
20

21 COUNT ONE

22 Violation of Fifth Amendment Right to Procedural Due Process

23 37. The Due Process Clause of the Fifth Amendment prohibits the
24 government from depriving any person of “life, liberty, or property, without due
25

1 process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within
2 the United States, including [non-citizens], whether their presence here is lawful,
3 unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

4 While ICE has the discretion to detain or release a noncitizen pending removal
5 proceedings, after that person is released they have a protected liberty interest in
6 remaining out of custody. *See Bd. Of Pardons v. Allen*, 482 U.S. 369, 377-81
7 (1987).
8

9
10 38. Due process requires that government action be rational and non-
11 arbitrary. *See United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Due
12 process also requires notice and “the opportunity to be heard ‘at a meaningful time
13 and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)
14 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). As such, due process
15 generally “requires some kind of a hearing before the State deprives a person of
16 liberty or property,” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is the case
17 even when an individual has been arrested or convicted on a criminal matter.
18
19 *Meneses v. Santacruz*, 811 F. Supp. 3d 1158, 1164 (C.D. Cal. Dec 2, 2025) (re-
20 detention of noncitizen with conviction for attempted murder, after roughly three
21 years of release on an Order of Supervision, held to violate due process with an
22 “unacceptably high risk that the government would erroneously deprive Petitioner
23 of his liberty interest absent a pre-detention hearing.”)
24
25

1 39. Petitioner has a legal interest and liberty interest in remaining free
2 from detention while he waits for the Immigration Judge in Portland Oregon to rule
3 on his application for Cancellation of Removal at his August 19, 2026, hearing.
4 Any action by Respondents to divest him of these rights without proper notice and
5 an opportunity to be heard would constitute a violation of procedural due process.
6

7 PRAYER FOR RELIEF

8 WHEREFORE, Petitioner prays for relief as follows in that this Court:
9

- 10 1) Assume jurisdiction in this matter;
- 11 2) Issue an immediate order barring the Respondents from removing
12 Petitioner from the State of Oregon, or, if Petitioner is in the State of
13 Washington, from the State of Washington, without notice to the Court
14 and approval by the Court;
- 15 3) Issue an order to show cause why this petition should not be granted
16 within three (3) days;
- 17 4) Declare that Petitioner's detention without an individualized
18 determination violates the Due Process Clause of the Fifth Amendment;
- 19 5) Issue a writ of habeas corpus ordering Respondents to release Petitioner
20 from detention;
- 21 6) Award Petitioner reasonable attorney's fees and costs under the Equal
22 Access to Justice Act and any other statute applicable to this matter;
23
24
25

1 7) Grant any further relief as the Court may deem just and proper.
2
3

4 Dated this 22nd day of July, 2026

5 */s/ Rebecca Hillstrom*
6

7 Attorney for Petitioner
8 OSB # 224211
9 Immigration Counseling Service
10 PO Box 40248
11 Portland, OR 97240
12 (503) 221-1689
13 bhillstrom@ics-law.org
14
15
16
17
18
19
20
21
22
23
24
25