Raquel E. Hecht, OSB # 933018
Alliance Legal, LLC
329 E 8th Ave.
Eugene, OR 97401
541-465-2173
raquel@a-legalservices.com

Elijah C. Moon, OSB # 252371
Alliance Legal, LLC
329 E 8th Ave.
Eugene, OR 97401
eli@a-legalservices.com

Attorneys for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Eugene Division

VICTORIANO CARRILLO PABLO,

Petitioner,

v.

JULIO HERNANDEZ, et al, Respondents include: (1) Julio Hernandez, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); (2) David Venturella, Acting Director of Immigration Customs Enforcement ("ICE"); (3) Markwayne Mullin, Secretary of the Department of Homeland Security ("DHS"); (4) Todd Blanche, Acting Attorney General of the United States; (5) U.S. Immigration and Customs Enforcement; and 6) U.S. Department of Homeland Security.

Respondents.

Case No.

Agency No. A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. VICTORIANO CARRILLO PABLO ("Petitioner") is a citizen and national of Guatemala who fled after suffering ongoing death threats from various members of violent criminal organizations and enduring abandonment and neglect by his parents.

2. Petitioner entered the United States on or about May 31, 2021.

3. Respondents commenced removal proceedings against Petitioner in immigration court, serving him a Notice to Appear (NTA) on June 5, 2021. Petitioner subsequently filed a Form I-589, Application for Asylum and for Withholding of Removal, entitling him to present his asylum claim with the due process rights under 8 U.S.C. § 1229a.

4. Respondent additionally is the beneficiary of an approved I-360 as a Special Immigrant Juvenile (SIJ) as of September 16, 2024.

5. Respondents now seek to ignore Petitioner's non-frivolous petition for relief, detain him, and transfer him away from the District of Oregon so that, on information and belief, they can imprison him under 8 U.S.C. § 1225. Respondents do so based not on Petitioner's personal circumstances or individualized facts but seemingly because of Respondents' interpretation—based on President Trump's whim and ahistorical determination--that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process.[1]

6. But Respondents cannot evade the law so easily. The law under which they purport to detain Petitioner does not unconditionally authorize their actions.

---

[1] *See, e.g.,* NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514 (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

7. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to detain him are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing his transfer out of this district.

JURISDICTION

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

9. 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).

10. 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).

VENUE

11. Venue is proper because Petitioner is in Respondents' custody, presumably in Portland, Oregon. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this district, where Petitioner is now in Respondents' custody. 28 U.S.C. § 1391(e).

12. Divisional venue is proper in the Eugene Division under Local Rule 3-2(a)(3) because the detention occurred in Oregon in Lane County.

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

13. 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 Petitioner is clearly 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.*

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Its "root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release." *Fay v. Noia*, 372 U.S. 391, 402 (1963). "It must never be forgotten that the writ of habeas corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired." *Bowen v. Johnston*, 306 U.S. 19, 26 (1939).

15. Petitioner is "in custody" for the purpose of § 2241 because he is arrested and detained by Respondents.

PARTIES

16. Petitioner is a 20-year-old citizen of Guatemala. Petitioner resides in Oregon and is present within the state of Oregon as of the time of the filing of this petition.[2]

[2] Petitioner seeks leave to proceed anonymously because their public identification creates a retaliatory physical harm risk because their status as an asylum seeker in the United States and the nature of their claim is sensitive and highly personal. *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000). 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

17. Respondent Julio Hernandez 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 non-citizens. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Respondent Hernandez is a legal custodian of Petitioner.

18. Respondent David Venturella is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Julio Hernandez and ICE in general. Respondent Venturella is a legal custodian of Petitioner.

19. Respondent Markwayne Mullin 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 Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

20. Respondent Todd Blanche is the Acting 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 and 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 Respondents.

---

conduct, thereby risking criminal prosecution.'" *Id.* (collecting cases; internal citations omitted). The Petitioner would provide their identity to the Respondents and the Court under seal.

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

FACTUAL BACKGROUND

24. Petitioner is a citizen and national of Guatemala.

25. Petitioner was threatened repeatedly by violent criminal organizations.

26. A state court determined that Petitioner is a Vulnerable Youth and was neglected and abandoned by his parents.

27. On or about May 31, 2021, Petitioner came to the United States.

28. On or about June 5, 2021, Respondents commenced removal proceedings against Petitioner under 8 U.S.C. § 1229a.

29. On September 11, 2023, Petitioner filed a Form I-589, Application for Asylum and for Withholding of Removal.

30. On September 16, 2024, Petitioner's Form I-360, Petition for Amerasian, Widower, or Special Immigrant application was approved.

31. On information and belief, Petitioner regularly complied with all Respondents' requirements following the commencement of removal proceedings.

32. On July 20, 2026, Respondents detained and arrested Petitioner.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

33. Petitioner restates and realleges all paragraphs as if fully set forth herein.

34. 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).

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

36. Courts analyze cases under the Fifth Amendment with the three-factor test established in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), which includes 1) the private interest that will be affected by the official action, 2) the risk of erroneous deprivation of that interest, and 3) the government's interest.

37. **Regarding the first factor**, "[f]reedom from imprisonment . . . lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action. [citation omitted] 'It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection. [citation omitted].' We have always been careful not to 'minimize the importance and fundamental nature' of the individual's right to liberty. [citation omitted]." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

38. Here, Petitioner has a weighty liberty interest.

39. **Regarding the second factor**, the "risk of erroneous deprivation of [Petitioners'] liberty interest in the absence of a pre-detention hearing is high." *E.A. T.-B. v. Wamsley*, 2025 WL 2402130, at *4 (W.D. Wash. Aug 19, 2025). "That the Government may believe it has a valid

reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *Id.* In the instant case, only the "government enforcement agent," namely, ICE agents, has made any decision about the propriety of detention, a far cry from the hearing before a neutral decisionmaker that due process requires. *See Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971). "Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for *some* mistakes on their part. But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability." *Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (emphasis added). Without a neutral adjudicator, there is a high risk of unreasonable mistakes that lead to detention.

40. Here, it is not clear what process and/or decision making was followed when Petitioner's liberty interest was extinguished.

41. **Regarding the third factor**, as "other courts have done, the Court concludes that the government's interest in detaining [Petitioners] or re-detaining [them] without a hearing is slight." *Maklad v. Murray*, 2025 U.S. Dist. LEXIS 153675, at *24 (E.D. Cal. Aug. 8, 2025). "[A]lthough [a pre-deprivation hearing] would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing . . . before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue." *E.A. T.-B.*, 2025 WL 2402130, at *5. The government's interest is not limited to enforcement of the law; instead, it also encompasses the interest of the "public," including the administrative or financial burdens additional process requires. *Mathews*, 424 U.S. at 348. Here, any cost in holding a hearing prior to detention would have been minimal. In addition, "[s]ociety's interest lies on the side of affording fair procedures to all persons, even though the

expenditure of governmental funds is required." *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983); see also *Morrissey v. Brewer*, 408 U.S. 471, 484 (1972) ("Society . . . has an interest in not having parole revoked because of erroneous information or because of an erroneous evaluation of the need to revoke parole, given the breach of parole conditions.").

42. Here, the government and the public have minimal interest in imprisoning Petitioner as he advances through his immigration matter.

COUNT TWO
Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority
Unlawful Detention

43. Petitioner restates and realleges all paragraphs as if fully set forth herein.

44. Under the Administrative Procedure 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).

45. 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)).

46. The INA provides that Respondents may release an individual from custody based on an individualized determination of their danger and flight risk. See 8 U.S.C. § 1226(a); *Zadvydas*, 533 U.S. at 690-691; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). After such a release decision is made, a revocation of the custody determination may be made only when

warranted by an individual's specific facts and circumstances. 8 U.S.C. § 1226(b); *see* 8 C.F.R. § 1236.1(c)(9).

47. 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).

48. By detaining Petitioner without consideration of his individualized facts and circumstances, Respondents have violated the APA. There have been no changes to Petitioner's facts or circumstances to support detention. On information and belief, Respondents have made no finding that Petitioner is a danger to the community. On information and belief, Respondents have made no finding that Petitioner is a flight risk.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Petitioner's re-detention without an individualized determination violates the APA;

(4) Declare that Petitioner's re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(6) Order Respondents to allow Petitioner's immigration counsel to accompany him to any future immigration matters (including ICE check-ins);

(7) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;

(8) If Respondents have already transferred Petitioner out of the district, issue a written Order prohibiting Respondents from transferring Petitioner anywhere farther from the district than the Tacoma Northwest Detention Center in Tacoma, Washington. If Petitioner has already been lodged at the Tacoma center, NOT to transfer him anywhere else, except back to the District of Oregon;

(9) Recognizing that access to counsel is difficult from detention, Order Respondents to make Petitioner available for a three-hour telephonic visit with counsel within two business days of when the petition was filed, between 9am – 5pm, and that Respondents must give Petitioner's 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 him to Eugene, Oregon, to pursue conferring with counsel.

(10) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(11) Grant any further relief this Court deems just and proper.

Respectfully submitted July 20, 2026.



Elijah C. Moon, OSB # 252371