,
BENJAMIN CORNELL, WSB #49553
ASCENT LEGAL, PLLC
5401 South Tacoma Way, Office 13
Tacoma, WA 98409
Office: (253) 300-6819
ben@ascentlegal.net

*Attorney for Petitioner*

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

JHONNY ALEXANDER MILLAN-PLAZA,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary for the Department of Homeland Security; DAVID VENTURELLA, Acting Director, Immigration and Customs Enforcement; JULIO HERNANDEZ, Field Office Director, Immigration and Customs Enforcement Seattle Field Office; BRUCE SCOTT, Warden, Northwest ICE Processing Center,

Respondents.

Case No. 2:26-cv-02715

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

## INTRODUCTION AND BACKGROUND

1. This case challenges the unlawful re-detention of Petitioner, Mr. Jhonny Millan-Plaza. Petitioner is a thirty-six-year-old national of Venezuela, currently held in the Respondents' custody at Northwest ICE Processing Center in Tacoma, Washington.

2. Petitioner entered the United States on March 3, 2023. He approached a port-of-entry and was paroled through a pre-scheduled screening set through the CBP One App. He was paroled under the authority 8 U.S.C. § 1182(d)(5) and then served a Notice to Appear to appear at the Portland Immigration Court on October 31, 2023.

3. After his entry, Petitioner properly filed a timely application for asylum and related relief within one year. *See* 8 C.F.R. § 208.4(a)(2).

4. Petitioner continued to attend his required immigration court hearings and apprised the Portland Immigration Court of a changed address in Salem, Oregon. It appears that, in June of 2025, his application was scheduled for a final hearing in Portland on its merits.

5. Petitioner has no history of arrests or criminal convictions in the United States. To the best of his knowledge, the only immigration violation he has potentially committed is not separately informing ICE-ERO of his current address (however, he did update EOIR). It should be noted that many persons who were paroled in by use of CBP One were never given clear instructions about requirements to check-in with ICE ERO. Petitioner never received a piece of mail, to the best of his knowledge, instructing him to check-in.

6. Petitioner was awaiting his final merits hearing on his asylum case when he was arrested by ICE-ERO in Lebanon, Oregon while making food deliveries for Walmart. He was working with valid employment authorization. The only explanation he was given for his arrest was that he didn't update his address.



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5401 S TACOMA WAY, OFFICE 13
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(253) 300-6819

7. Petitioner was not given a chance to present evidence or an explanation as to why he should not be considered a danger nor flight risk. Since his lawful request to enter and paroled release in March of 2023, there had been no substantial change to his circumstances. In fact, the argument that he was not a flight risk had only grown stronger, considering his proper filing of Form I-589 within one year of entry, updating his address with the immigration court, and attendance at all required hearings. He has only lived in Salem, Oregon since entering the country.

8. This Court held many times over that due process generally requires an individualized hearing prior to the government's decision to terminate someone's liberty. *See, e.g., E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322-24 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash. Sept. 12, 2025); *Gonzalez v. Bostock*, 808 F. Supp. 3d 1109, 2025 U.S. Dist. LEXIS 198515, at *23-24 (W.D. Wash. Oct. 7, 2025); *Mohit Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 U.S. Dist. LEXIS 182775, at *7-8 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-ML (W.D. Wash. Oct. 15, 2025), Dkt. 13; *Y.M.M. v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 U.S. Dist. LEXIS 219064, at *5-6 (W.D. Wash. Nov. 6, 2025). Many other U.S. District Courts have recently made similar holdings. *See, e.g, Y-Z-L-H v. Bostock*, 792 F. Supp 3d 1123, 1138 (D. Or. 2025) ("Common sense suggests…that parole given only a on case-by-case basis is to be terminated only on [an individualized] basis.") No such hearing occurred in this case.

9. Accordingly, the Court should grant a petition for a writ of habeas corpus and order Petitioner's immediate release. *E.A. T.-B.*, 795 F. Supp. 3d at 1324 (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
TACOMA, WASHINGTON 98409
(253) 300-6819

because it is after the fact and cannot prevent an erroneous deprivation of liberty"); *Ramirez Tesara*, 800 F. Supp. 3d at 1138-39 (similar); *Mohit Kumar*, 2025 U.S. Dist. LEXIS 182775, at *17-18 (similar); *Gonzalez*, 2025 U.S. Dist. LEXIS 198515, at *24-25 (similar); *Y.M.M.*, 2025 U.S. Dist. LEXIS 219064, at *5–7 (similar).

**PARTIES**

10. Petitioner, Mr. Jhonny Alexander Millan Plaza, is a native and citizen of Venezuela, presently held at the Northwest ICE Processing Center in Tacoma, Washington.

11. Respondent, Mr. Markwayne Mullin, is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. Mr. Mullin is the cabinet-level secretary responsible for all immigration enforcement in the United States. He implements enforcement of the Immigration and Nationality Act ("INA") and oversees the operations of ICE.

12. Respondent, Mr. David Venturella, is sued in his capacity as the Acting Director of ICE, which is tasked with executing all immigration law enforcement in the United States.

13. Respondent, Mr. Julio Hernandez, is sued in his official capacity as the Field Office Director of Seattle's ICE Field Office, which exercises control over King County, the site of Petitioner's arrest. He bears responsibility for the apprehension, detention, and removal of noncitizens within her Field Office's jurisdiction. Mr. Hernandez is the immediate legal custodian of the Petitioner, for purposes of a federal habeas petition.

14. Respondent, Mr. Bruce Scott, is sued in his official capacity as the Warden of the Northwest ICE Processing Center, the privately-operated immigration detention facility where Petitioner is being held in custody. He exercises direct custody over the Petitioner.



ASCENT LEGAL, PLLC
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## JURISDICTION

15. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"). 8 U.S.C. § 1101 et. seq.; *see also Reno v. Flores*, 507 U.S. 292, 306 (1993) (affording immigrants Due Process under the Fifth Amendment).

16. The Court holds 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).

17. The 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

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

19. 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, and a substantial part of the events or omissions giving rise to this petition have occurred in the Western District of Washington.

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

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

21. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . as it [affords] a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
TACOMA, WASHINGTON 98409
(253) 300-6819

writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

22. Petitioner is "in custody" for the purpose of 8 U.S.C. § 2241 because he is held at the Northwest ICE Processing Center. "[T]he Supreme Court has repeatedly held that the in-custody requirement is met where the Government restricts a petitioner's freedom of action or movement." *Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), citing *Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder,* 454 F. App'x 769, 772-72 (11th Cir. 2011) (same).

## LEGAL FRAMEWORK

23. Due process requires that if the DHS seeks to re-arrest a person like Petitioner — i.e., someone who was previously released from its custody, had been largely compliant with the terms of his release, and has lived in the United States without incident — the government must provide at least *some* sort of hearing before a neutral decisionmaker to determine whether re-detention is necessary. Typically, re-detention is only justifiable when a person can be considered a flight risk or danger to the community.

24. All persons, regardless of their immigration status, are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, it is the "the most elemental of liberty interests." *E.A. T.-B.*, 795 F. Supp. 3d at 1321 (citation modified); *see also Ramirez Tesara*, 800 F. Supp. 3d at 1136



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(stating that the petitioner had "an exceptionally strong interest in freedom from physical confinement"). 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).

25. Custody determinations for "applicants for admission" in § 1229a removal proceedings are governed by 8 U.S.C. § 1225. As referenced above, the BIA now finds that aliens initially detained under 8 U.S.C. §1225(b) no longer have eligibility for release under 8 U.S.C. § 1229(a). *See also* 8 C.F.R. § 1003.19(h)(2)(i)(B). However, the DHS does retain the authority to parole or release individuals such people from custody, as it regularly does under 8 C.F.R. § 212.5(a)-(c), 8 U.S.C. § 1182(d)(5); 8 C.F.R. § 1003.19(d). This is precisely what happened when Petitioner was released in May of 2023.

26. Consistent with this principle, those released on parole or conditional release have an interest in their "continued liberty." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

27. To protect against arbitrary re-detention and ensure the right to liberty, due process requires "adequate procedural protections" testing whether the government's asserted justification for physical confinement "outweigh(s) the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

28. Many courts, including this one, have recognized that such principles apply with respect to the re-detention of noncitizens – especially those the DHS has arbitrarily begun returning into its custody, often after such person have been released for months, or as we see here, for years. *See, e.g., Makuey v. Scott et. al.*, No. 2:25-cv-02135 (W.D. Wash Dec. 16, 2025) (revocation of Petitioner's Order of Supervision without a "material change in circumstances"



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5401 S TACOMA WAY, OFFICE 13
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found to be in violation of due process, despite prior criminal history, which was already known when prior Order of Supervision was issued).

29. In *E.A. T.-B. v. Wamsley*, *supra*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976) framework to hold that, even when the government asserts that mandatory detention statutorily applies, a person's re-detention cannot occur absent a hearing on their custody. The Court reached the same conclusion in *Ramirez Tesara*, *Kumar*, and *Gonzalez*. *See Ramirez Tesara*, 800 F. Supp. 3d at 1136; *Mohit Kumar*, 2025 U.S. Dist. LEXIS 182775, at *8-9; *Gonzalez*, 2025 U.S. Dist. LEXIS 198515, at *22–23.

30. In applying the *Mathews* factors, the *E.A. T.-B.* Court held that the petitioner had "undoubtedly [been] deprive[d] of an established interest in his liberty," which, as noted, "is the most elemental of liberty interests." *E.A. T.-B.*, 795 F. Supp. 3d at 1321. The Court explained that, even if detention was mandatory under the INA, the risk of an erroneous deprivation of liberty without a hearing was high, as a hearing serves to ensure that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.* at 1322-23.

31. Moreover, the *E.A. T.-B.* Court explained that "the Government's interest in re-detaining non-citizens previously released without a hearing is low: although it 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." *Id.* at 1324. As a result, this Court ordered the petitioner's immediate release. *Id.*

32. This Court applied a similar analysis in *Ramirez Tesara*. There, it reasoned that the petitioner had a "weighty" interest in his liberty and was entitled to the "full protections of the due process clause." *Ramirez Tesara, supra,* 800 F. Supp. 3d at 1136. When examining the value



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
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(253) 300-6819

of additional safeguards, the Court noted that, despite the government's allegations of Intensive Supervision Appearance Program ("ISAP") violations, a belief that 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.* at 1137 (quoting *E.A. T.-B*, 795 F. Supp. 3d at 1322). In *Ramirez Tesara*, the Court concluded that any government interest in re-detention without a hearing was "minimal." *Id.* Once again, it ordered the petitioner's immediate release. *Id.* at 1139.

33. The *Mohit Kumar* and *Gonzalez* courts reached the same conclusion, holding that all *Mathews* factors weighed in favor of affording the petitioner a proper hearing on his or her re-detention. 2025 U.S. Dist. LEXIS 182775, at *11; 2025 U.S. Dist. LEXIS 198515, at *24; *see also* Report & Recommendation, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13 (same). The decisions in *E.A. T.-B.*, *Ramirez Tesara*, *Mohit Kumar*, and *Gonzalez* are consistent with many other district court decisions addressing similar situations. *See, e.g.*, *Valdez v. Joyce*, 803 F. Supp. 3d 213, 219 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1037 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 U.S. Dist. LEXIS 153675 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 U.S. Dist. LEXIS 162825 (E.D. Cal. Aug. 21, 2025) (similar).

**COUNT ONE**

**Violation of the Fifth Amendment Right to Procedural Due Process**

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

35. 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



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
TACOMA, WASHINGTON 98409
(253) 300-6819

United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

36. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custodial decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. *Zadvydas* at 698.

37. Although the initial decision to detain or release a person may be at government discretion, "the government's decision to release an individual from custody creates 'an implicit promise,' upon which that individual may rely, that their liberty 'will be revoked only if [they] fail to live up to the ... conditions [of release].'" *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Stated otherwise, while ICE has the discretion to detain or release a noncitizen pending removal proceedings, after that person is released they have a protected liberty interest in remaining out of custody. *Id.* (citing *Romero v. Kaiser*, No. 22-cv-20508, 2022 U.S. Dist. LEXIS 82538 (N.D. Cal. May 6, 2022)) (emphasis added).

38. The Due Process Clause generally "requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). For cases involving re-detention, the guiding authority on this process stems from *Mathews*, *supra.* Under *Mathews*, a reviewing court must consider "(1) the private interest that will be affected by the official action, (2) the risk of an erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, and (3) the



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
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Government's interest, including the function involved and the fiscal and administrative burdens that an additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 325.

Petitioner's Private Interest

39. "[T]he Supreme Court has repeatedly recognized that individuals who have been released from custody, even where such release is conditional, have an interest in their continued liberty." *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (collecting cases). Consequently, when Petitioner was released on his own recognizance in May of 2023, he "took with him a liberty interest which is entitled to the full protections of the [D]ue [P]rocess [C]lause." *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash. Sept. 12, 2025).

40. Petitioner's liberty interest was reaffirmed for more than three years, and that Respondents allowed him to remain in the community for that long only strengthens his interest. *See Dejesus v. Bostock*, No. 25-CV- 01427-JHC-TLF, 2025 U.S. Dist. LEXIS 230827, at *6 (W.D. Wash. Nov. 24, 2025). He has now been undeniably deprived of a liberty interest; Petitioner was arrested, brought into custody, and detained with apparently no evidence whatsoever that he has now become a danger or flight risk. *See* Exh. "A," p. 4 (Form I-213, 7/6/2026, providing no details regarding the arrest or a failure to abide by conditions of paroled entry). The first *Mathews* factor clearly favors Petitioner.

Risk of Erroneous Deprivation

41. The second *Mathews* factor examines "the risk of an erroneous deprivation of [the petitioner's private] interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards[.]" *Mathews,* 424 U.S. at 335.



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5401 S TACOMA WAY, OFFICE 13
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42. The erroneous deprivation of Petitioner's liberty interest was significant. It was made in violation of the agency's own regulations, was not based on an individualized determination of his being a flight risk or danger to the community, and he has now been jailed for nearly a month. He has lost income and been separated from his family community members within Marion County; moreover, at no point has the government even examined the probable value of substitute safeguards to ensure his attendance in future removal proceedings. The government's actions have not only created a risk, but materialized into an actual and wrongful deprivation of his liberty.

The Government's Interest in Detention

43. The third *Mathews* factor contemplates "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews,* 424 U.S. at 335.

44. The government's interest in re-detaining an alien, who has not violated the terms of his conditional release – and to do so without the benefit of a pre-detention hearing or process – is low. *See E.A. T.-B.*, 795 F. Supp. 3d at 1324 ("the Government's interest in re-detaining non-citizens previously released without a hearing is low") (citing *Ortega*, 415 F. Supp. 3d at 970). Although a pre-detention process would've presented some administrative burden on the government, given the high risk of an erroneous deprivation and the fundamental liberty interests at stake, offering *no* process is constitutionally deficient. *E.A. T.-B.* at 1324; *see also Makuey v. Scott et. al.*, No. 2:25-cv-02135, *12 (W.D. Wash Dec. 16, 2025) (noting that the process referred to in 8 C.F.R. § 241.13(i)(3) does not guard against the improper deprivations of liberty, in instances where the government lacks the authority to revoke release in the first place).



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
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(253) 300-6819

45. All three *Mathews* factors thus favor the Petitioner. The revocation of his to live freely in the United States, after nearly three years of building a life in this country and complying with all immigration laws, was done in an arbitrary and incoherent manner and not based on a rational determination of whether he is a danger to the community or a flight risk. Such actions constitute a fundamental violation of due process.

## PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to:

1) Assume jurisdiction over this matter;
2) Issue an Order to Show Cause ordering Respondents to demonstrate why this Petition should not be granted within three days;
3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
4) Declare that Petitioner's re-detention was made in violation of statute and regulation;
5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
6) Issue an Order prohibiting the Respondents from transferring Petitioner outside the district without 48 hours' advance notice to the undersigned and the Court;
7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
8) Grant any further relief this Court deems just and proper.



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
TACOMA, WASHINGTON 98409
(253) 300-6819

Respectfully submitted,

Dated: July 31, 2026

*s/ Benjamin Cornell*
BENJAMIN CORNELL, WSB #49533
Ascent Legal, PLLC
5401 South Tacoma Way, Office 13
Tacoma, WA 98409
Office: (253) 300-6819
ben@ascentlegal.net

*Attorney for Petitioner*

*s/ Geoffrey M. Doolittle*
Geoffrey M Doolittle OSB # 113700
DOOLITTLE LEGAL, LLC
1201 SW 12th Ave. Suite 600
Portland, OR 97205
Office: (971) 325-5347
doolittlelegal@gmail.com

*Pro Hac Vice application forthcoming*

**VERIFICATION OF PETITIONER**

On behalf of Jhonny Alexander Millan-Plaza, the party in custody, I verify that the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief and having reviewed the relevant records and pleadings. Mr. Millan-Plaza has also communicated all the above facts to counsel, with the source of information being his own recollection of events in the United States. He has not verified this filing himself as he is currently held in ICE custody. The preceding Petition for Writ of Habeas Corpus is compliant with both 28 U.S.C. § 2242 and LCR 100(e).

Dated: July 31st, 2026

*s/ Benjamin Cornell*
BENJAMIN CORNELL, WSB #49533
Ascent Legal, PLLC
5401 South Tacoma Way, Office 13
Tacoma, WA 98409
Office: (253) 300-6819
ben@ascentlegal.net

*Attorney for Petitioner*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

US Attorneys
Email: usawaw.habeas@usdoj.gov

Dated: July 31, 2026

*s/ Benjamin Cornell*
Benjamin Cornell, WSB #49533



ASCENT LEGAL, PLLC
5401 S TACOMA WAY, OFFICE 13
TACOMA, WASHINGTON 98409
(253) 300-6819