

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Mohit KUMAR,

Petitioner,

v.

Camilla WAMSLEY, Seattle Field Office
Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE); Bruce SCOTT,
Warden, Northwest ICE Processing Center;
Kristi NOEM, Secretary, United States
Department of Homeland Security; Pamela
BONDI, U.S. Attorney General; UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY;

Respondents.

Case No. 25-cv-1772

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

1 **INTRODUCTION**

2 1. This case challenges the unlawful re-detention of Mohit Kumar, who entered the
3 United States in early 2024 to seek asylum. He was apprehended shortly after his entry, but
4 released on his own recognizance for the purpose of continuing his removal proceedings.

5 2. In the year and a half since his release, Mr. Kumar, has timely filed for asylum,
6 complied with the conditions imposed by Immigration and Customs Enforcement (ICE) as part
7 of his release, and been granted employment authorization.

8 3. At a July 17, 2025, check-in, Mr. Kumar notified ICE that he wished to relocate
9 to Eastern Washington. The deportation officer agreed to transfer the supervision of his case.
10 Based on this understanding, Mr. Kumar subsequently moved to Eastern Washington and
11 attended a check-in on July 21, 2025, at the ICE Enforcement and Removal Operations (ERO)
12 field office in Yakima, Washington.

13 4. Despite having just granted him permission to move to Washington, ICE arrested
14 Mr. Kumar at that first appointment in Yakima. The arresting deportation officer's only
15 explanation was that Mr. Kumar was "at the wrong place at the wrong time."

16 5. ICE subsequently transferred Mr. Kumar to the Northwest ICE Processing Center
17 (NWIPC), where he remains detained.

18 6. Before re-detaining him on July 21, Respondents did not provide Mr. Kumar with
19 any written notice explaining the basis for the revocation of his release. Nor did they provide a
20 hearing before a neutral decisionmaker where ICE was required to justify the basis for re-
21 detention or explain why Mr. Kumar is a flight risk or danger to the community.

22 7. As this Court has recently held in multiple cases, due process demands such a
23 hearing *prior* to the government's decision to terminate a person's liberty. *See E.A. T.-B. v.*

1 *Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19,
2 2025); Order Granting Mot. for Temp. Rest. Order, *Ramirez Tesara v. Wamsley*, No. 2:25-cv-
3 01723-MJP-TLF (W.D. Wash. Sept. 11, 2025), Dkt. 19 (hereinafter “*Ramirez Tesara*, Dkt. 19”).

4 Many other courts have held the same in recent months.

5 8. By failing to provide such a hearing, Respondents have violated Mr. Kumar’s
6 constitutional right to due process. They have also violated the statutory requirement that
7 warrantless arrests like that of Mr. Kumar occur only after the arresting officer assesses if the
8 person poses a flight risk. *See* 8 U.S.C. § 1357(a)(2).

9 9. Accordingly, this Court should grant the instant petition for a writ of habeas
10 corpus and order his immediate release. *See E.A. T.-B.* 2025 WL 2402130, at *6 (ordering
11 immediate release because “a post-deprivation hearing cannot serve as an adequate procedural
12 safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty”);
13 *Ramirez Tesara*, Dkt. 19 (ordering immediate release to restore Petitioner to the status quo prior
14 to the unlawful arrest without a hearing).

15 JURISDICTION

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

18 11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
19 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
20 Constitution (Suspension Clause).

21 12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
22 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C.
23 § 1651.

1 **VENUE**

2 13. Venue is proper because Mr. Kumar is in Respondents' custody at the NWIPC in
3 Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
4 484, 493–500 (1973), venue lies in the judicial district in which Mr. Kumar currently is in
5 custody.

6 14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
7 Respondents are employees, officers, and agencies of the United States, and because a
8 substantial part of the events or omissions giving rise to the claims occurred in the Western
9 District of Washington.

10 **REQUIREMENTS OF 28 U.S.C. § 2243**

11 15. The Court must grant the petition for writ of habeas corpus or issue an order to
12 show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28
13 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within
14 three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15 16. Habeas corpus is “perhaps the most important writ known to the constitutional
16 law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or
17 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The application for the writ usurps the
18 attention and displaces the calendar of the judge or justice who entertains it and receives prompt
19 action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120
20 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th
21 Cir. 1954) (Habeas corpus is “a speedy remedy, entitled by statute to special, preferential
22 consideration to insure expeditious hearing and determination.”).

PARTIES

17. Mohit Kumar is an adult citizen of India. He is detained at the NWIPC.

18. Respondent Camilla Wamsley is the Field Office Director for ICE's Seattle Field Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal custodian of Mr. Kumar and is sued in her official capacity.

19. Respondent Bruce Scott is employed by the private corporation The Geo Group, Inc., as Warden of the NWIPC, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

20. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

21. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice. She is sued in her official capacity.

22. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE.

FACTUAL BACKGROUND

23. Mr. Kumar is a 26-year-old citizen and national of India.

24. Mr. Kumar is a member of [REDACTED] in India and has campaigned for that party. As a result of [REDACTED], he suffered attacks by [REDACTED]

1 [REDACTED] Following those attacks, he and his family arranged to have
2 Mr. Kumar enter Canada on a student visa.

3 25. Yet even after entering Canada, violence followed Mr. Kumar. He was received
4 threatening a phone call from [REDACTED] and he and a friend were attacked by a man wielding a bat
5 while Mr. Kumar and the friend were in a car.

6 26. Following the attack in Canada, on February 6, 2025, Mr. Kumar entered the
7 United States to seek asylum.

8 27. Mr. Kumar was apprehended by Border Patrol following his entry. According to
9 his arrest records, ICE issued him a Notice to Appear (NTA) in removal proceedings and
10 released him on his own recognizance.

11 28. Mr. Kumar subsequently timely filed for asylum. In November 2024, he received
12 a work permit.

13 29. Mr. Kumar initially had an in-person check-in in a New York ICE office in March
14 of 2024. Following that check-in, he moved to California. He attended an in-person ICE check-in
15 on June 10, 2024, in San Francisco, and was then scheduled for a check-in a year later. He
16 completed a check-in via email with the ICE office on June 9, 2025.

17 30. Following his June 9, 2025, ICE email check-in, Mr. Kumar had an in-person ICE
18 check-in at the San Jose ICE office on July 17, 2025. At that check-in, Mr. Kumar requested that
19 his case be transferred to Washington. The ICE officer agreed and granted permission, while also
20 placing Mr. Kumar in the Intensive Supervision Appearance Program (ISAP), operated by BI
21 Incorporated, a private contractor. Enrolling in ISAP also required Mr. Kumar to install the BI
22 SmartLINK monitoring app on his phone.

23

1 31. Following his move to Washington, Mr. Kumar attended a scheduled check-in on
2 July 21, 2025, at the Yakima ICE office. At the check-in, the Yakima ICE took Mr. Kumar to a
3 room and fingerprinted him. The officer then handcuffed Mr. Kumar's wrists and ankles.

4 32. When Mr. Kumar asked the ICE officer why ICE was arresting him, the officer
5 offered no explanation, other than remarking that Mr. Kumar "came to the wrong place at the
6 wrong time" and that he would need to "talk to the judge."

7 33. Mr. Kumar's arrest record provides no basis for his arrest. Instead, it simply states
8 that he was "amenable to arrest."

9 34. Prior to Mr. Kumar's re-arrest, he did not receive written notice of the reason for
10 his re-detention.

11 35. Prior to Mr. Kumar's arrest, ICE did not assess whether Mr. Kumar presented a
12 flight risk or danger to community, or whether he arrest was justified for some other reason. In
13 fact, the arrest record provides no basis for Mr. Kumar's arrest and states that he has no criminal
14 history.

15 36. Prior to Mr. Kumar's re-detention, he never received a hearing before a neutral
16 decisionmaker to determine if his re-detention is justified.

17 **LEGAL FRAMEWORK**

18 37. Under current caselaw that governs the immigration court system, the Executive
19 Office for Immigration Review (EOIR) considers an individual like Mr. Kumar—who entered
20 without admission or parole—to be subject to mandatory detention. *See Matter of Yajure*
21 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). However, at the time he entered the United States,
22 EOIR caselaw provided that persons like Mr. Kumar were detained under 8 U.S.C. § 1226(a).
23 *See, e.g., Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 803 (BIA 2020)

1 38. Regardless of the statutory basis for detention, due process requires that a person
2 like Mr. Kumar receive a hearing before a neutral decisionmaker to determine whether any re-
3 detention is justified, and whether the person is a flight risk or danger to the community.

4 39. “Freedom from imprisonment—from government custody, detention, or other
5 forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.”
6 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the “the
7 most elemental of liberty interests.” *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see*
8 *also Ramirez Tesara*, Dkt. 19 at 5 (stating that the petitioner had “an exceptionally strong interest
9 in freedom from physical confinement”).

10 40. Consistent with this principle, individuals released on parole or other forms of
11 conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408
12 U.S. 471, 482 (1972).

13 41. Such liberty is protected by the Fifth Amendment because, “although
14 indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability to
15 be gainfully employed and live with family, “and its termination inflicts a ‘grievous loss’ on the
16 [released individual] and often on others.” *Id.*

17 42. To guarantee against arbitrary re-detention and to guarantee the right to liberty,
18 due process requires “adequate procedural protections” that ensure the government’s asserted
19 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
20 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

21 43. Due process thus guarantees notice and an individualized hearing before a neutral
22 decisionmaker to assess danger or flight risk before the revocation of an individual’s release.

23 *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law

1 is the opportunity to be heard at a meaningful time in a meaningful manner.” (citation
2 modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to
3 determine whether there is probable cause or reasonable ground to believe that the arrested
4 parolee has committed . . . a violation of parole conditions” and that such determination be made
5 “by someone not directly involved in the case” (citation modified)).

6 44. Several courts, including this one, have recognized that these principles apply
7 with respect to the re-detention of the many noncitizens that DHS has recently begun taking back
8 into custody, often after such persons have been released for months and years.

9 45. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S.
10 319 (1976), framework to hold that even in a case where the government asserted that mandatory
11 detention applied, a person’s re-detention could not occur absent a hearing. The Court in *Ramirez*
12 *Tesara* did the same. *See Ramirez Tesara*, Dkt. 19 at 5.

13 46. In applying the three *Mathews* factors, the *E.A. T.B.* court held that the petitioner
14 had “undoubtedly [been] deprive[d] . . . of an established interest in his liberty,” *E.A. T.-B.*, 2025
15 WL 2402130, at *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation
16 modified). The Court further explained that even if detention was mandatory, the risk of
17 erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure
18 that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.*
19 at *4–5. Finally, the Court explained that “the Government’s interest in re-detaining non-citizens
20 previously released without a hearing is low: although it would have required the expenditure of
21 finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations
22 before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous
23

1 deprivation of the liberty interest at issue.” *Id.* at *5. As a result, this Court ordered the
2 petitioner’s immediate release. *Id.* at *6.

3 47. This Court held the same in *Ramirez Tesara*. There, the Court reasoned that the
4 petitioner had a “weighty” interest in his liberty and was entitled to the “full protections of the
5 due process clause.” *Ramirez Tesara*, Dkt. 19 at 6. When examining the value of additional
6 safeguards, the Court also noted that despite government’s allegations of ISAP violations, “the
7 fact ‘that the Government may believe it has a valid reason to detain Petitioner does not
8 eliminate its obligation to effectuate the detention in a manner that comports with due process.’”
9 *Id.* at 8 (quoting *E.A. T.-B*, 2025 WL 2402130, at *4). Finally, the Court reasoned that any
10 government interest in re-detention without a hearing was “minimal.” *Id.* Accordingly, there too,
11 the Court ordered the Petitioners’ immediate release. *Id.* at 10–11.

12 48. This Court’s decisions in *E.A. T.-B.* and *Ramirez Tesara* are consistent with many
13 other district court decisions addressing similar situations. *See, e.g., Valdez v. Joyce*, No. 25 CIV.
14 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to
15 lack of pre-deprivation hearing); *Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-PCP,
16 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946
17 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-
18 CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

19 49. The same framework and principles apply here and compel Mr. Kumar’s
20 immediate release.

1 **CLAIMS FOR RELIEF**

2 **Count I**
3 **Violation of Fifth Amendment Right to Due Process**
4 **Procedural Due Process**

5 50. Mr. Kumar restates and realleges all paragraphs as if fully set forth herein.

6 51. Due process does not permit the government to re-detain Mr. Kumar and strip him
7 of his liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker
8 to determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408
9 U.S. at 487–88. Such written notice and a hearing must occur *prior* to any re-detention.

10 52. Respondents revoked Mr. Kumar’s release and deprived him of liberty without
11 providing him written notice and a meaningful opportunity to be heard by a neutral
12 decisionmaker prior to his re-detention.

13 53. Accordingly, Mr. Kumar’s re-detention violates the Due Process Clause of the
14 Fifth Amendment.

15 **Count II**
16 **Violation of 8 U.S.C. § 1357(a)(2)**
17 **Arrest Without Flight Risk Assessment**

18 54. Mr. Kumar restates and realleges all paragraphs as if fully set forth herein.

19 55. 8 U.S.C. § 1357(a)(2) and its implementing regulations require that, for
20 noncitizens arrested “in the United States,” the arresting officer must have a “reason to believe”
21 that the noncitizen “is likely to escape before a warrant can be obtained for his arrest.”

22 56. To meet this requirement, officers must have “grounds for a reasonable belief that
23 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).

1 57. 8 C.F.R. § 287.8(c)(2)(ii) reinforces these requirements by stating that before
2 making a warrantless arrest, an immigration officer must make an individualized determination
3 that an individual is “likely to escape before a warrant can be obtained.”

4 58. The officer who arrested Mr. Kumar did not make an individualized
5 determination based on a reasonable belief or probable cause that Mr. Kumar is a flight risk.

6 59. Accordingly, Mr. Kumar’s arrest violated the mandatory statutory and regulatory
7 requirements that govern ICE’s conduct in such arrests and was unlawful.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Mr. Kumar respectfully requests that this Court:

- 10 (1) Assume jurisdiction over this matter;
- 11 (2) Issue an Order to Show Cause ordering Respondents to show cause within three days
12 as to why this Petition should not be granted as required by 28 U.S.C. § 2243;
- 13 (3) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Kumar from
14 custody immediately and permanently enjoining his re-detention during the pendency
15 of his removal proceeding absent written notice and a hearing prior to re-detention
16 where Respondents must prove by clear and convincing evidence that he is a flight
17 risk or danger to the community and that no alternatives to detention would mitigate
18 those risks;
- 19 (4) Declare that Mr. Kumar’s re-detention while removal proceedings are ongoing
20 without first providing an individualized determination before a neutral
21 decisionmaker violates the Due Process Clause of the Fifth Amendment;
- 22 (5) Award Mr. Kumar attorney’s fees and costs under the Equal Access to Justice Act,
23 and on any other basis justified under law; and

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

2 Dated: September 15, 2025

3 s/ Matt Adams
4 Matt Adams, WSBA No. 28287
5 matt@nwirp.org

s/ Leila Kang
Leila Kang, WSBA No. 48048
leila@nwirp.org

5 s/ Aaron Korthuis
6 Aaron Korthuis, WSBA No. 53974
7 aaron@nwirp.org

s/ Glenda M. Aldana Madrid
Glenda M. Aldana Madrid,
WSBA No. 46987
glenda@nwirp.org

7 NORTHWEST IMMIGRANT
8 RIGHTS PROJECT
9 615 Second Ave., Suite 400
10 Seattle, WA 98104
11 (206) 957-8611

10 *Attorneys for Mr. Kumar*