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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Jose LOPEZ REYES,

Petitioner,

v.

Cammilla 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, United States Attorney General;
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY;

Respondents.

Case No. 2:25-cv-1868

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

INTRODUCTION

1
2 1. This case challenges the unlawful re-detention of Jose Lopez Reyes, who entered
3 the United States in early 2022 to seek asylum. He was apprehended shortly after his entry but
4 was released on his own recognizance for the purpose of continuing his removal proceedings.

5 2. In the years since his release, Mr. Lopez has timely filed for asylum, complied
6 with the conditions of his release imposed by Immigration and Customs Enforcement (ICE),
7 attended his removal proceedings, and been granted employment authorization.

8 3. On May 27, 2025, Mr. Lopez attended a hearing in his removal proceedings
9 before the immigration court in Miami, Florida. At that hearing, and acting on a motion from the
10 Department of Homeland Security (DHS), the immigration judge (IJ) dismissed Mr. Lopez's
11 removal proceedings.

12 4. Mr. Lopez was then arrested by DHS in the hallway when leaving the
13 immigration courtroom. Evidently failing to recognize that their own records demonstrated that
14 he could not be subjected to expedited removal proceedings because he had been in the country
15 for more than two years, *see* 8 U.S.C. § 1225(b)(1)(A)(iii)(II), the agency issued him a Notice
16 and Order of Expedited Removal.

17 5. Regardless, Mr. Lopez subsequently passed a credible fear interview, and was
18 then transferred back into standard removal proceedings to apply for asylum before an IJ in
19 Tacoma, Washington, as he is currently detained at the Northwest ICE Processing Center
20 (NWIPC).

21 6. Before re-detaining him on May 27, 2025, Respondents did not provide Mr.
22 Lopez with any written notice explaining the basis for the revocation of his release. Nor did they
23

1 provide a hearing before a neutral decisionmaker where ICE was required to justify the basis for
2 re-detention or explain why Mr. Lopez is a flight risk or danger to the community.

3 7. In fact, Respondents' re-arrest of Mr. Lopez was a transparently illegal charade.
4 DHS requested to dismiss removal proceedings—where Mr. Lopez had lawfully filed an
5 application for asylum—solely for the purpose of preterminating his asylum application and
6 instead placing Mr. Lopez into expedited removal proceedings. But the plain language of the
7 expedited removal statute disallows this maneuver, as it only authorizes expedited removal for
8 persons who have resided in the United States two years or less. *See* 8 U.S.C.
9 § 1225(b)(1)(A)(iii)(II).

10 8. In addition, as this Court has recently held in multiple cases, due process demands
11 a hearing *prior* to the government's decision to terminate a person's liberty. *See E.A. T.-B. v.*
12 *Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19,
13 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL
14 2637663 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025
15 WL 2677089 (W.D. Wash. Sept. 17, 2025). Many other courts have recently held the same.

16 9. By failing to provide such a hearing, Respondents have violated Mr. Lopez's
17 constitutional right to due process. Moreover, Respondents' actions appear to have been a
18 coordinated effort to remove Mr. Lopez expeditiously via a process that plainly does not apply to
19 him. The unlawful nature of his placement in expedited removal and his arrest in connection with
20 that unlawful process simply underscore that his current detention is illegal.

21 10. Accordingly, this Court should grant the instant petition for a writ of habeas
22 corpus and order his immediate release. *See E.A. T.-B.* 2025 WL 2402130, at *6 (ordering
23 immediate release because "a post-deprivation hearing cannot serve as an adequate procedural

1 safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty”);
2 *Ramirez Tesara*, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar).

3 **JURISDICTION**

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

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

9 13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
10 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C.
11 § 1651.

12 **VENUE**

13 14. Venue is proper because Mr. Lopez is in Respondents’ custody at the NWIPC in
14 Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
15 484, 493–500 (1973), venue lies in the judicial district in which Mr. Lopez currently is in
16 custody.

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

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

22 16. The Court must grant the petition for writ of habeas corpus or issue an order to
23 show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief.

1 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return
2 “within three days unless for good cause additional time, not exceeding twenty days, is allowed.”

3 *Id.*

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

12 **PARTIES**

13 18. Jose Lopez Reyes is an adult citizen of Cuba. He is detained at the NWIPC.

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

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

22 21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
23 (DHS). She is responsible for the implementation and enforcement of the Immigration and

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

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

7 **FACTUAL BACKGROUND**

8 24. Mr. Lopez is a 47-year-old citizen and national of Cuba.

9 25. Mr. Lopez entered the United States on April 1, 2022, to seek asylum. He was
10 subsequently apprehended by Border Patrol.

11 26. According to his arrest records, following apprehension, DHS issued Mr. Lopez a
12 Notice to Appear (NTA) in removal proceedings and released him on his own recognizance.

13 27. Following his release on recognizance, Mr. Lopez relocated to Miami, Florida.

14 28. In December 2022, Mr. Lopez filed a timely application for asylum.

15 29. Mr. Lopez was subsequently granted employment authorization so that he could
16 support himself while waiting for the final adjudication of his asylum application.

17 30. In the years that followed, Mr. Lopez complied with the check-in requirements
18 imposed by ICE as part of his release on recognizance.

19 31. On May 27, 2025, Mr. Lopez appeared at the immigration court in Miami,
20 Florida, for a master calendar hearing (MCH) before the IJ. At the hearing, DHS moved to
21 dismiss the removal proceedings, in spite of the fact that Mr. Lopez had an unresolved
22 application for asylum pending.

23 32. The IJ granted DHS's motion to dismiss.

1 33. Immediately following the hearing, ICE arrested Mr. Lopez in the hallway outside
2 of the courtroom and transported him to the ICE Field Office in Miramar, Florida.

3 34. The same day of his arrest, ICE also purported to initiate “expedited” removal
4 proceedings against Mr. Lopez. To do so, ICE issued Mr. Lopez a Notice of Order and Expedited
5 Removal.

6 35. However, under § 1225(b)(1), expedited removal may only be applied to certain
7 noncitizens. Specifically, the statute may only be applied to either (1) someone who “is arriving”
8 or (2) someone “who has not been admitted or paroled into the United States” *and* who has
9 resided in the United States for less than two years. 8 U.S.C. § 1225(b)(1)(A)(i), (iii); *see also* 8
10 C.F.R. § 235.3(b)(1).

11 36. At some point after Mr. Lopez was issued his order of expedited removal, DHS
12 administered a credible fear interview (CFI) to Mr. Lopez after he expressed a fear of
13 persecution if returned to his home country. *See* 8 U.S.C. § 1225(b)(1). The CFI assesses
14 whether a person expressing a fear of return to their country of origin could demonstrate a
15 significant possibility of establishing eligibility for asylum. 8 C.F.R. § 208.30(e).

16 37. Mr. Lopez passed the CFI and because of this, the expedited removal order was
17 not executed. Instead, his case was transferred back into standard removal proceedings under 8
18 U.S.C. § 1229a. However, rather than releasing him and permitting him to proceed before a non-
19 detained court, he was kept detained and his proceedings are now before the detained court at
20 NWIPC in Tacoma, Washington. He was informed by the immigration judge that his last
21 opportunity to present his case will be at his next hearing, set for October 14, 2025, at the
22 Tacoma Immigration Court.

1 38. Mr. Lopez’s arrest record provides no basis for his arrest, other than the unlawful
2 expedited removal proceedings.

3 39. Prior to Mr. Lopez’s re-arrest, he did not receive written notice of the reason for
4 his re-detention.

5 40. Prior to Mr. Lopez’s re-arrest, ICE did not assess whether Mr. Lopez presented a
6 flight risk or danger to the community, or whether his re-arrest was justified for some other
7 reason. In fact, the arrest record provides no basis for Mr. Lopez’s re-arrest and states that he has
8 no criminal history.

9 41. Prior to Mr. Lopez’s re-detention, he never received a hearing before a neutral
10 decisionmaker to determine if his re-detention is justified.

11 **LEGAL FRAMEWORK**

12 **Due Process Principles**

13 42. Due process requires that if DHS seeks to re-arrest a person like Mr. Lopez—who
14 has lived in the United States for years without incident after DHS first released him, and has
15 attended his removal proceedings and complied with the terms of his release—the government
16 must afford a hearing before a neutral decisionmaker to determine whether any re-detention is
17 justified, and whether the person is a flight risk or danger to the community.

18 43. “Freedom from imprisonment—from government custody, detention, or other
19 forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.”
20 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the “the
21 most elemental of liberty interests.” *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see*
22 *also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner had “an exceptionally
23 strong interest in freedom from physical confinement”).

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

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

8 46. To protect against arbitrary re-detention and to ensure the right to liberty, due
9 process requires “adequate procedural protections” that test whether the government’s asserted
10 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
11 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

12 47. Due process thus guarantees notice and an individualized hearing before a neutral
13 decisionmaker to assess danger or flight risk before the revocation of an individual’s release.
14 *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law
15 is the opportunity to be heard . . . at a meaningful time in a meaningful manner.” (citation
16 modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to
17 determine whether there is probable cause or reasonable ground to believe that the arrested
18 parolee has committed . . . a violation of parole conditions” and that such determination be made
19 “by someone not directly involved in the case” (citation modified)).

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

1 49. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S.
2 319 (1976), framework to hold that even in a case where the government asserted that mandatory
3 detention applied, a person’s re-detention could not occur absent a hearing. The Court did the
4 same in *Ramirez Tesara* and *Kumar*. See *Ramirez Tesara*, 2025 WL 2637663, at *2–3; *Kumar*,
5 2025 WL 2677089, at *2–3.

6 50. In applying the three *Mathews* factors, the *E.A. T.B.* court held that the petitioner
7 had “undoubtedly [been] deprive[d] . . . of an established interest in his liberty,” 2025 WL
8 2402130, at *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation
9 modified). The Court further explained that even if detention was mandatory, the risk of
10 erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure
11 that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.*
12 at *4–5. Finally, the Court explained that “the Government’s interest in re-detaining non-citizens
13 previously released without a hearing is low: although it would have required the expenditure of
14 finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations
15 before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous
16 deprivation of the liberty interest at issue.” *Id.* at *5. As a result, this Court ordered the
17 petitioner’s immediate release. *Id.* at *6.

18 51. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court
19 reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full
20 protections of the due process clause.” 2025 WL 2637663, at *3. When examining the value of
21 additional safeguards, the Court also noted that despite the government’s allegations of ISAP
22 violations, “the fact ‘that the Government may believe it has a valid reason to detain Petitioner
23 does not eliminate its obligation to effectuate the detention in a manner that comports with due

1 process.” *Id.* at *4 (quoting *E.A. T.-B.*, 2025 WL 2402130, at *4). Finally, the Court reasoned
2 that any government interest in re-detention without a hearing was “minimal.” *Id.* Accordingly,
3 there too, the Court ordered the petitioner’s immediate release. *Id.* at *5.

4 52. The *Kumar* court reached the same decision, again holding that all three factors
5 weighed in favor of affording the petitioner a bond hearing. 2025 WL 2677089, at *3–4.

6 53. This Court’s decisions in *E.A. T.-B.*, *Ramirez Tesara*, and *Kumar* are consistent
7 with many other district court decisions addressing similar situations. *See, e.g., Valdez v. Joyce*,
8 No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate
9 release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-CV-
10 05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-
11 CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*,
12 No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

13 54. The same framework and principles apply here and compel Mr. Lopez’s
14 immediate release.

15 **CLAIM FOR RELIEF**
16 **Violation of Fifth Amendment Right to Due Process**
17 **Procedural Due Process**

18 55. Mr. Lopez restates and realleges all the prior paragraphs as if fully set forth
19 herein.

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

1 57. Respondents revoked Mr. Lopez's release and deprived him of liberty without
2 providing him written notice and a meaningful opportunity to be heard by a neutral
3 decisionmaker prior to his re-detention.

4 58. Accordingly, Mr. Lopez's re-detention violates the Due Process Clause of the
5 Fifth Amendment.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Mr. Lopez respectfully requests that this Court:

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

23 Dated: September 26, 2025

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