

The Honorable Tiffany M. Cartwright

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Y.M.M.,

Petitioner,

v.

Cammilla WAMSLEY, et al.,

Respondents.

Case No. 2:25-cv-02075-TMC

**TRAVERSE AND RESPONSE TO
RESPONDENTS' RETURN TO
PETITION FOR WRIT OF HABEAS
CORPUS**

Note on Motion Calendar:
November 10, 2025

The central claim in this case is that the Due Process Clause requires a hearing *prior to* re-detention, before a neutral decisionmaker, where Immigration and Customs Enforcement (ICE) must justify the re-detention of Petitioner Y.M.M. Respondents did not provide these required procedures upon re-detaining Y.M.M. in August 2025, thus violating her due process rights, as several judges in this district have recognized, and as courts around the country have held. *See, e.g., E.A. T.-B. v. Wamsley*, --- F. Supp. 3d ----, No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025); *Francois v. Wamsley*, No. C1:25-cv-02122-RSM-GJL, 2025 WL 3063251 (W.D. Wash. Nov. 3, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp.

1 3d ----, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025).

2 Accordingly, and consistent with these decisions, Y.M.M.'s immediate release is warranted.

3 Respondents' return addresses only the regulatory authority for Y.M.M.'s initial release
4 and subsequent re-detention without a hearing. But regardless of the authority for the initial
5 detention and release upon Y.M.M.'s entry into the country, due process required a hearing *prior*
6 to her re-detention, during which ICE was required to prove by clear and convincing evidence
7 that Y.M.M. violated her conditions of release and is now a flight risk or danger. Respondents do
8 not contest this point, which is dispositive of the habeas petition. Indeed, Respondents' return
9 supplies no legal argument against Petitioner's claim that she is being held in violation of the
10 Fifth Amendment's Due Process Clause. Accordingly, the Court should grant the petition for a
11 writ of habeas corpus and order Y.M.M.'s release from detention.

12 The parties agree on critical facts in this case. In short, Y.M.M. entered the United States
13 in December 2023 and was released on her own recognizance. *See* Dkt. 4 ¶ 3; Dkt. 10 at 2. She
14 was placed in removal proceedings, and scheduled for a May 2026 hearing before the Seattle
15 Immigration Court. Dkt. 4 ¶ 5; Dkt. 10 at 2; Dkt. 11-1 at 2. Since her release in 2023, Y.M.M.
16 has complied with the steps of her immigration case, including filing her asylum application,
17 finding gainful employment, and building toward a stable life in the United States. Dkt. 4 ¶¶ 5-6.
18 These are points that Respondents never contest. *See* Dkt. 10 at 2-3.

19 Respondents do not meaningfully contest that Y.M.M. was arbitrarily arrested and re-
20 detained on August 8, 2025 without pre-deprivation notice and hearing. Dkt. 10 at 2; Dkt. 11-2 at
21 2-3. Respondents do not contest that Y.M.M. was re-detained simply because she was present
22 while Respondents were seeking to arrest her friend, Dkt. 4 ¶¶ 7-9; Dkt. 5-1 at 3; Dkt. 10 at 2.
23 Respondents also do not contest that at the time of her arrest, they were aware that Y.M.M. was
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1 in active removal proceedings, Dkt. 5-1 at 3; that she had no criminal history, *id.*, that she was
2 cooperative with arresting officers despite their masked attire, Dkt. 4 ¶ 8, and that Respondents
3 were aware Y.M.M. had already submitted an asylum application, Dkt. 4 ¶ 9. Respondents
4 contend only that once arrested and re-detained, Y.M.M. did not request a bond hearing. Dkt. 10
5 at 3.

6 Y.M.M.'s petition for writ of habeas corpus presents one claim: that she is currently
7 being detained in violation of the Fifth Amendment's Due Process Clause. Rather than address
8 this claim through legal argument, Respondents only recite the regulations that purportedly
9 permitted Y.M.M.'s initial release in December 2023 and the regulatory restrictions on ICE's
10 authority to revoke such release. *See* Dkt. 10. In fact, Respondents do not meaningfully oppose
11 the petition. Dkt. 10 at 1-3 (submitting only "factual background" and "relevant detention
12 authority"); *id.* at 3 (asserting in conclusion that no evidentiary hearing is necessary).

13 Even according to Respondents' return, Y.M.M.'s arrest violated the regulatory authority
14 to re-detain an individual previously released on her own recognizance. "[A] senior immigration
15 official's exercise of discretion to revoke an individual's release under 8 C.F.R. § 236.1(c)(9) is
16 limited to situations in which there has been a 'change of circumstance' since the non-citizen
17 was initially released." Dkt. 10 at 2 (citing *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A.
18 1981); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017)). Yet Respondents
19 identify no "change in circumstance" to justify her re-detention. *See* Dkt. 10 at 2; Dkt. 11-2 at 3.

20 As this Court previously explained, "a post-deprivation hearing cannot serve as an
21 adequate procedural safeguard because it is after the fact and cannot prevent an erroneous
22 deprivation of liberty." *E.A. T.-B.*, 2025 WL 2402130, at *6; *see also, e.g., Kumar*, 2025 WL
23 2677089 ("[R]elease following post-deprivation procedures is insufficient to remedy the alleged
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1 harm because the alleged harm, i.e., a potentially erroneous detention, has happened and is
2 continuing to occur.”). Consistent with these decisions, Y.M.M. is *already* being unlawfully
3 detained without a pre-deprivation hearing, and only immediate release remedies that ongoing
4 violation.

5 **CONCLUSION**

6 For the foregoing reasons, due process requires a pre-deprivation hearing before a neutral
7 decisionmaker, at which ICE must justify re-detention by clear and convincing evidence.
8 Because Respondents failed to provide Y.M.M. that constitutionally-required process, her
9 immediate release is warranted, and the Court should grant the habeas petition. In so ordering,
10 the Court should specify that Y.M.M. must be released on the same conditions of release
11 previously imposed before the re-arrest in August 2025.

12 Respectfully submitted this 5th day of November, 2025.

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1 **WORD COUNT CERTIFICATION**

2 I, Amanda Ng, certify that this traverse and response contains 905 words, in compliance
3 with the Local Civil Rules.

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