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DETAINED

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**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON**

LUIS CALDERON,

Petitioner,

v.

KRISTI NOEM, Secretary of U.S.
Department of Homeland Security;
PAMELA BONDI, United States Attorney
General;
TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcements;
CAMMILLA WAMSLEY, Seattle Field
Office Director, Immigration and Customs
Enforcement;
BRUCE SCOTT, Warden, Northwest ICE
Processing Center;

Respondents.

Case No.: 2:25-cv-2136

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

Agency File Number:



PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful re-detention of Mr. Luis Calderon, who entered the United States in 2002. He was apprehended in 2008, placed in removal proceedings, and released by the Department of Homeland Security (DHS) on a \$3,000 bond.

1 2. Mr. Calderon was subsequently re-detained in 2012 and was released on a \$10,000 bond
2 pursuant to an order from an Immigration Judge.

3 3. In April 2025, Mr. Calderon was re-detained. Before re-detaining him, Respondents did
4 not provide Mr. Calderon with any written notice explaining the basis for the revocation of his
5 release. Nor did they provide him with a hearing before a neutral decisionmaker where DHS was
6 required to justify the basis for re-detention or explain why Mr. Calderon is a flight risk or a
7 danger to the community. By failing to provide such a hearing, Respondents have violated Mr.
8 Calderon's constitutional right to due process.

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

15 5. Accordingly, this court should grant the instant petition for a writ of habeas corpus and
16 order his immediate release. *See E.A. T.-B.* 2025 WL 2402130, at *6 (ordering immediate release
17 because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it
18 is after the fact and cannot prevent an erroneous deprivation of liberty"); *Ramirez Tesara*, at *4
19 (similar); *Kumar*, 2025 WL 2677089, at *3-4 (similar).

20
21 **PARTIES**

22 6. Petitioner Luis Calderon is a citizen of Peru who is presently detained at the Northwest
23 ICE Processing Center in Tacoma, Washington.

1 7. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the
2 United States. The Immigration Judges who decide removal cases and applications for relief
3 from removal do so as her designees.

4 8. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S.
5 Department of Homeland Security. She is the cabinet-level secretary responsible for all
6 immigration enforcement in the United States and has ultimate custodial authority over Mr.
7 Calderon.

8 9. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S.
9 Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency
10 responsible for all immigration enforcement in the United States.

11 10. Respondent Cammilla Wamsley is sued in her official capacity as Field Office Director
12 for the Seattle office of Immigration and Customs Enforcement, an agency of the Department of
13 Homeland Security. She is responsible for overseeing ICE operations pertaining to noncitizens
14 within its territorial jurisdiction, such as Mr. Calderon, including detentions, enforcement, and
15 removal operations. She is the immediate legal custodian of the petitioner for purposes of a
16 federal habeas petition.

17 11. Respondent, Bruce Scott, is sued in his official capacity as the Warden of the Northwest
18 ICE Processing Center, the privately-operated immigration detention center where the Petitioner
19 is being detained. Mr. Scott has immediate physical custody of Mr. Calderon.

20
21 **JURISDICTION**

22 12. This Court has jurisdiction over this matter under 18 U.S.C. § 1331 (federal question
23 jurisdiction); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1651 (All Writs Act).

1 13. Further, this Court has jurisdiction under the Suspension Clause of Article I, § 9, cl. 2, of
2 the U.S. Constitution. *See INS v. St. Cyr*, 533 U.S. 289 (2001).

3 14. No other petitions, appeals, or motions regarding habeas corpus have been filed with any
4 other court.

5
6 **VENUE**

7 15. Venue in the Western District of Washington is appropriate under 28 U.S.C. § 1391(e)(1)
8 because the Petitioner is currently detained in this judicial district.

9 16. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because the Respondents live,
10 work, and/or operate within this judicial district and because the actions which gave rise to this
11 Petition took place in Tacoma, Washington, which falls within this judicial district.

12
13 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

18 18. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .
19 affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.”
20 *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The application for the writ usurps the attention and
21 displaces the calendar of the judge or justice who entertains it and receives prompt action from
22 him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.
23 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954)

1 (Habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to
2 insure expeditious hearing and determination.”).

3
4 **FACTUAL BACKGROUND**

5 19. Mr. Calderon is a 39-year-old citizen and national of Peru.

6 20. Mr. Calderon entered that United States on or about March 5, 2002, when he was fifteen-
7 years-old, near San Ysidro, California.

8 21. Mr. Calderon was apprehended by DHS on or about January 2, 2008, and was issued a
9 Notice to Appear, initiating removal proceedings under section 240 of the INA.

10 22. He was released by the Department of Homeland Security (DHS) on a \$3,000 bond on
11 the same day.

12 23. Mr. Calderon was subsequently re-detained by the DHS on or about August 19, 2012. An
13 immigration judge held a custody redetermination hearing and ordered his release upon payment
14 of a \$10,000 bond on September 10, 2012. He has obeyed every order and requirement of his
15 release.

16 24. In 2013, Mr. Calderon filed an application for Special Rule Cancellation of Removal as
17 a noncitizen who has been battered or subjected to extreme cruelty by a United States citizen or
18 permanent resident spouse or parent, pursuant to section 240A(b)(2) of the INA. An
19 immigration judge found him ineligible for the requested relief, and he appealed that decision.
20 Most recently, the U.S. Court of Appeals for the Ninth Circuit remanded his case to the Board
21 of Immigration Appeals (Board) due to its misapplication of relevant state law and failure to
22 follow its own precedent. The appeal remains pending with the Board.

1 25. Mr. Calderon was re-detained in April 2025 after being arrested for and questioned about
2 a theft that occurred that he was being accused of. He was charged with Grand Theft of Personal
3 Property in Violation of California Penal Code § 487(a), a misdemeanor, on May 7, 2025. That
4 charge was dismissed by the Superior Court of California, County of Los Angeles on July 30,
5 2025.

6 26. Prior to Mr. Calderon's re-detention, he did not receive written notice of the reason for
7 his re-detention.

8 27. Prior to Mr. Calderon's re-detention, ICE did not assess whether he presented a flight risk
9 or danger to the community.

10 28. Prior to Mr. Calderon's re-detention, he never received a hearing before a neutral
11 decisionmaker to determine if his re-detention is justified.

12 29. Mr. Calderon has been detained for over six months.

13
14 **MEMORANDUM OF LAW**

15 **Due Process Principles**

16 30. Due process requires that if DHS seeks to re-arrest a person like Mr. Calderon—who has
17 previously been granted bond by an immigration judge—the government must afford a hearing
18 before a neutral decisionmaker to determine whether any re-detention is justified, and whether
19 the person is a flight risk or danger to the community.

20 31. “Freedom from imprisonment—from government custody, detention, or other forms of
21 physical restraint—lies at the heart of the liberty protected by the Due Process Clause.”

22 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the “the
23 most elemental of liberty interests.” *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see*

1 *also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner had “an exceptionally
2 strong interest in freedom from physical confinement”).

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

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

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

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

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

4 37. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319
5 (1976), framework to hold that even in a case where the government asserted that mandatory
6 detention applied, a person’s re-detention could not occur absent a hearing. The Court did the
7 same in *Ramirez Tesara* and *Kumar*. See *Ramirez Tesara*, 2025 WL 2637663, at *2–3; *Kumar*,
8 2025 WL 2677089, at *2–3.

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

21 39. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court reasoned that
22 the petitioner had a “weighty” interest in his liberty and was entitled to the “full protections of
23 the due process clause.” 2025 WL 2637663, at *3. When examining the value of additional

1 safeguards, the Court also noted that despite the government’s allegations of ISAP violations,
2 “the fact ‘that the Government may believe it has a valid reason to detain Petitioner does not
3 eliminate its obligation to effectuate the detention in a manner that comports with due process.’”

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

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

9 41. This Court’s decisions in *E.A. T.-B.*, *Ramirez Tesara*, and *Kumar* are consistent with
10 many other district court decisions addressing similar situations. *See, e.g., Valdez v. Joyce*, No.
11 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release
12 due to lack of pre-deprivation hearing); *Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-
13 PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-
14 00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No.
15 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

16 42. Even in cases where a noncitizen has been charged with or convicted of a crime after
17 being granted a bond by an immigration judge, courts in the Northern District of California
18 found that those noncitizens were entitled to a pre-deprivation hearing and ordered the
19 petitioners’ immediate release. *See Guillermo M.R. v. Kaiser*, No. 25-cv-05436-RFL, 2025 U.S.
20 Dist. LEXIS 138205 (N.D. Cal., July 16, 2025); *Domingo v. Kaiser*, No. 25-cv-058933-RFL,
21 2025 WL 1940179 (N.D. Cal., July 14, 2025).

22 43. The same framework and principles apply here and compel Mr. Calderon’s immediate
23 release, especially considering that all charges against him were dismissed.

1 44. This Petition has been verified by Petitioner. *See* Verification of Petitioner.

2
3 **CLAIM FOR RELIEF**
4 **Violation of Fifth Amendment Right to Due Process**
5 **Procedural Due Process**

6 45. Mr. Calderon restates and realleges all paragraphs as if fully set forth here.

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

11 47. Respondents revoked Mr. Calderon’s release on bond and deprived him of liberty without
12 affording him any written notice or meaningful opportunity to be heard by a neutral
13 decisionmaker prior to his re-detention.

14 48. Accordingly, Mr. Calderon’s re-detention violates the Due Process Clause of the Fifth
15 Amendment.

16 **IRREPARABLE INJURY**

17 49. Mr. Calderon has suffered irreparable injury as a result of his detention. He has been in
18 custody for nearly six months, despite living in the United States for over twenty years and
19 despite his release on bond over ten years ago. His physical liberty continues to be restrained,
20 and no just cause for doing so can be specified. “It is well established that the deprivation of
21 constitutional rights’ unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695
22 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Calderon from custody and permanently enjoin his re-detention during the pendency of his removal proceedings absent written notice and a hearing prior to re-detention where Respondent must prove by clear and convincing evidence that he is a flight risk or a danger to the community and that no alternatives to detention would mitigate those risks;
- (4) Declare that Mr. Calderon’s re-detention while removal proceedings are ongoing without first proving an individualized determination before a neutral decisionmaker violates the Due Process Calus of the Fifth Amendment;
- (5) Issue an order providing for an award of attorney’s fees and costs; and
- (6) Grant such other relief as may be just and reasonable.

Dated: October 29, 2025.

/s/ Hilary Smith
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