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DETAINED

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

8 LLIMMY RODRIGUEZ JIMENEZ,

9 Petitioner,


10 v.

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

17 Respondents.

Case No.: 2:25-cv-2167

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

Agency File Number: 

18 **PETITION FOR WRIT OF HABEAS CORPUS**

19 **INTRODUCTION**

20 1. This case challenges the unlawful re-detention of Mr. Llimmy Rodriguez Jimenez, who
21 entered the United States in 1996. He surrendered himself to Immigration and Naturalization
22 Service (INS) in 1997 and was charged with deportability at that time. He was not detained by
23 INS.

1 2. After an Immigration Judge denied his application for asylum and his appeal was dismissed
2 by the Board of Immigration Proceedings, Mr. Rodriguez was placed on an Order of Supervision
3 by INS. There is no evidence that the order has ever been revoked.

4 3. Mr. Rodriguez was re-detained by the Department of Homeland Security (DHS) on May
5 27, 2025. Before re-detaining him, Respondents did not provide Mr. Rodriguez with an individual
6 determination about the likelihood of removal based on changed circumstances, nor did they
7 follow it with a notice and opportunity to respond per the government's own regulations. *See* 8
8 C.F.R. §§ 241.13(f), (i); 241.4(l). By failing to do so, Respondents have violated Mr. Rodriguez'
9 constitutional right to due process.

10 4. This Court recently ordered the immediate release of a petitioner in a similar circumstance
11 finding that the regulations certainly appear to require "an individualized determination about the
12 likelihood of removal based on changed circumstances, followed by notice and an opportunity to
13 respond." *Phetsadakone v. Scott*, No. 2:25-cv-01678-JNW, 2025 U.S. Dist. LEXIS 173785, at *8
14 (W.D. Wash. Sept. 5, 2025).

15 5. In a similar vein, this Court also has recently held in multiple cases that due process
16 demands a hearing *prior* to the government's decision to terminate a person's liberty. *See E.A. T.-*
17 *B. v. Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19,
18 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL
19 2637663 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025
20 WL 2677089 (W.D. Wash. Sept. 17, 2025). Many other courts have recently held the same.

21 6. Accordingly, this court should grant the instant petition for a writ of habeas corpus and
22 order Mr. Rodriguez' immediate release. *See Phetsadakone*, 2025 WL 2402130, at *14 (ordering
23

1 immediate release to restore the status quo ante litem to prevent irreparable harm while allowing
2 full adjudication of petitioner's claims.)

3
4 **PARTIES**

5 7. Petitioner Llimy Rodriguez Jimenez is a citizen of Cuba who is presently detained at
6 the Northwest ICE Processing Center in Tacoma, Washington.

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

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

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

17 11. Respondent Camilla Wamsley is sued in her official capacity as Field Office Director for
18 the Seattle office of Immigration and Customs Enforcement, an agency of the Department of
19 Homeland Security. She is responsible for overseeing ICE operations pertaining to noncitizens
20 within its territorial jurisdiction, such as Mr. Rodriguez, including detentions, enforcement, and
21 removal operations. She is the immediate legal custodian of the petitioner for purposes of a federal
22 habeas petition.

1 12. Respondent, Bruce Scott, is sued in his official capacity as the Warden of the Northwest
2 ICE Processing Center, the privately-operated immigration detention center where the Petitioner
3 is being detained. Mr. Scott has immediate physical custody of Mr. Rodriguez.

4
5 **JURISDICTION**

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

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

10 15. No other petitions, appeals, or motions regarding habeas corpus have been filed with any
11 other court.

12
13 **VENUE**

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

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

19
20 **REQUIREMENTS OF 28 U.S.C. § 2243**

21 18. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
22 (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243.

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

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

11
12 **FACTUAL BACKGROUND**

13 20. Mr. Rodriguez is a 55-year-old citizen and national of Cuba.

14 21. Mr. Rodriguez entered that United States on or about July 1, 1996, near Calexico,
15 California.

16 22. Mr. Rodriguez surrendered himself to INS on or about February 12, 1997, in Buffalo, New
17 York, and was found deportable under section 241(a)(1)(B) of the Immigration and Nationality
18 Act (INA) for having entered the United States without inspection.

19 23. Mr. Rodriguez applied for asylum, withholding of removal, and protection under the
20 Convention Against Torture and an immigration judge denied his application on October 6, 1998.

21 24. The Board of Immigration Appeals (Board) rejected Mr. Rodriguez’ appeal as untimely on
22 April 27, 1999.

1 25. Assuming that the former INS and current DHS could not effectuate Mr. Rodriguez'
2 removal to Cuba, he was placed on an Order of Supervision on March 13, 2003, rather than
3 detaining him or removing him.

4 26. For over twenty years, Mr. Rodriguez fully complied with his supervision while building
5 a life in the United States. He married his U.S. citizen partner, Reynaldo Chinaea, on April 6, 2023,
6 after being in a relationship since 2018. He has been a dance teacher for many years and is beloved
7 by the students he has taught over the years.

8 27. Mr. Rodriguez was detained by Immigration and Customs Enforcement on May 27, 2025,
9 at his yearly check-in. He was initially detained at the Krome Detention Center in Miami, Florida.

10 28. Since his initial detention, he has been transferred three times: from Krome to Broward,
11 Florida; from Broward to a detention center somewhere in Texas; and finally, from Texas to
12 NWIPC in Tacoma, Washington on June 20, 2025, over 3,000 miles from his home.

13 29. Prior to Mr. Rodriguez' detention, he did not receive written notice of the reason for his
14 detention and revocation of his order of supervision.

15 30. Prior to Mr. Rodriguez' detention, ICE did not provide him with a notice and opportunity
16 to respond to the revocation.

17 31. Mr. Rodriguez has been detained for over five months.

18
19 **MEMORANDUM OF LAW**

20 **Due Process Principles**

21 32. Due process and DHS' own regulations require that if DHS/ICE seeks to revoke an order
22 of supervision for someone like Mr. Rodriguez—who has previously been given an order of
23 supervision that he has not violated—the government must conduct an individualized

1 determination about the likelihood of removal based on changed circumstances, followed by a
2 notice and opportunity to respond. *See* 8 C.F.R. §§ 241.13(f), (i); 241.4(l).

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

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

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

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

20 37. Due process protects against deprivation of liberty without proper process, and this
21 protection extends to deportation proceedings. U.S. Const. amend. V. (“No person shall be . . .
22 deprived of life, liberty, or property, without due process of law[.]”); *Trump v. J.G.G.*, 145 S. Ct.
23 1003, 1006, 221 L. Ed. 2d 529 (2025) (“It is well established that the Fifth Amendment entitles

1 aliens to due process of law' in the context of removal proceedings." (quoting *Reno v. Flores*, 507
2 U.S. 292, 306, (1993)).

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

6 39. For example, in *Phetsadakone*, this Court ordered the petitioner released from detention to
7 restore the status quo of liberty prior to alleged unlawful re-detention when the petitioner had
8 previously been released on supervision, which he maintained without incident for decades. 2025
9 U.S. Dist. LEXIS 173785, at *14.

10 40. The *Phetsadakone* court recognized that "[w]hen ICE revokes supervised release,
11 regulations appear to require an individual determination about the likelihood of removal based
12 on changed circumstances, followed by a notice and opportunity to respond." *Id.* at *8 (citing 8
13 C.F.R. § 241.13(f), (i)). Without clear evidence that ICE made an individual determination
14 regarding the likelihood of Mr. Rodriguez' removal and provided him with notice and opportunity
15 to respond, it is very likely ICE violated its own regulations and violated Mr. Rodriguez' right to
16 Due Process.

17 41. Courts across the country have consistently demanded governmental compliance with
18 administrative regulations designed to safeguard individual liberty interests. *United States ex rel.*
19 *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. I.N.S.*, 384 F.3d 1150, 1162
20 (9th Cir. 2004); *see also Martinez-Camargo v. I.N.S.*, 282 F.3d 487, 491 (7th Cir. 2002); *K.E.O.*
21 *v. Woosley*, No. 4:25-CV-74-RGJ, 2025 U.S. Dist. LEXIS 172361, , at *6-7 (W.D. Ky. Sept. 4,
22 2025).

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

13 43. This Court’s decisions in *E.A. T.B.*, *Ramirez Tesara*, and *Kumar* are consistent with many
14 other district court decisions addressing similar situations. *See, e.g., Valdez v. Joyce*, No. 25
15 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release
16 due to lack of pre-deprivation hearing); *Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-
17 PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-
18 00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No.
19 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

20 44. The same and similar framework and principles apply here and compel Mr. Rodriguez’
21 immediate release.

22 45. This Petition has been verified by Petitioner. *See* Verification of Petitioner.

1 irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v.*
2 *Burns*, 427 U.S. 347, 373 (1976).

3 52. Further, Mr. Rodriguez has been transferred to a three different facilities and is currently
4 has a facility over 3,000 miles away from his home. He has been cut off from the necessary
5 support of family and friends.

6
7 **PRAYER FOR RELIEF**

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

- 9 (1) Assume jurisdiction over this matter;
- 10 (2) Issue an Order to Show Cause ordering Respondents to show cause within three days
11 as to why this Petition should not be granted as required by 28 U.S.C. § 2243;
- 12 (3) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr.
13 Rodriguez from custody and permanently enjoin his re-detention during the pendency
14 of this litigation;
- 15 (4) Declare that Mr. Rodriguez’ detention without providing him an individualized
16 determination and notice an opportunity to respond violates the Due Process Calus of
17 the Fifth Amendment;
- 18 (5) Issue an order providing for an award of attorney’s fees and costs; and
- 19 (6) Grant such other relief as may be just and reasonable.
- 20

21 Dated: October 31, 2025.

22 /s/ Hilary Smith
HILARY SMITH, WSBA #60474
23 Attorney for Petitioner

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