

DETAINED

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

MICHAEL TESSEMA,

Petitioner,

v.

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

Respondents.

Case No.: 2:25-cv-2330

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

Agency File Number: 206-881-866

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful re-detention of Mr. Michael Tessema, who entered the United States in 2015. He was immediately detained in Los Fresnos, Texas, where he applied for asylum, withholding of removal, and protection under the Convention Against Torture.

1 2. After an Immigration Judge denied his application relief, Petitioner was placed on an Order
2 of Supervision by Immigration and Customs Enforcement (ICE). In the about ten years since he
3 been under that order of supervision, he has not missed a check-in or violated the conditions of
4 his order.

5 3. Petitioner was re-detained by the ICE on October 17, 2025, after he attended an interview
6 for his then-pending adjustment of status application. While ICE did provide Petitioner with a
7 "Notice of Revocation of Release," it lacks specifics and Petitioner did not have an adequate
8 opportunity to respond.

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

14 5. Other courts in this circuit have agreed that when ICE fails to follow its own regulations,
15 detention is unlawful and in violation of Due Process. *Minh Nhat Phan v. Noem*, No.: 3:25-cv-
16 02422-RBM-MSB, 2025 WL 2898977, at *9. (S.D. Cal. Oct. 10, 2025) (granting a habeas petition
17 after finding that that the petitioner's detention was unlawful because ICE failed to comply with
18 the regulations); *Phakeokoth v. Noem*, No.: 3:25-cv-02817-RBM-SBC, 2025 U.S. Dist. LEXIS
19 220365, at 12 (S.D. Cal Nov. 7, 2025) (granting the petitioner's temporary restraining order after
20 finding that "ICE's conclusory explanations for revoking Petitioner's release 'did not offer him
21 adequate notice of the basis for the revocation decision such that he could meaningfully respond
22 at the post-detention informal interview.'"); *see also M.S.L. v. Bostock*, Civ. No. 6:25-cv-01204-
23 AA, 2025 U.S. Dist. LEXIS 162519, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (finding

1 an informal interview given 27 days after petitioner was taken into ICE custody "cannot
2 reasonably be construed as . . . prompt" and granting habeas petition); *Quoc Chi Hoac v. Becerra*,
3 No. 2:25-cv-01740-DC-JDP, 2025 U.S. Dist. LEXIS 136002, 2025 WL 1993771, at *4 (E.D. Cal.
4 July 16, 2025) (finding petitioner likely to succeed on his claim that his detention was unlawful
5 "[b]ecause there is no indication that an informal interview [*10] was provided"); *Wing Nuen Liu*
6 *v. Carter*, Case No. 25-03036-JWL, 2025 U.S. Dist. LEXIS 115275, 2025 WL 1696526, at *2
7 (D. Kan. June 17, 2025) (finding "that officials did not properly revoke petitioner's release"
8 because "most obviously . . . petitioner was not granted the required interview upon the revocation
9 of his release").

10 6. In a similar vein, this Court also has recently held in multiple cases that due process
11 demands a hearing *prior* to the government's decision to terminate a person's liberty. *See E.A. T.-*
12 *B. v. 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 7. Accordingly, this court should grant the instant petition for a writ of habeas corpus and
17 order Petitioner's immediate release. *See Phetsadakone*, 2025 WL 2402130, at *14 (ordering
18 immediate release to restore the status quo ante litem to prevent irreparable harm while allowing
19 full adjudication of petitioner's claims.)

20
21 **PARTIES**

22 8. Petitioner Michael Tessema is a citizen of Eritrea who is presently detained at the
23 Northwest ICE Processing Center in Tacoma, Washington.

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

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

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

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

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

19
20 **JURISDICTION**

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

1 15. 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 16. No other petitions, appeals, or motions regarding habeas corpus have been filed with any
4 other court.

5
6 **VENUE**

7 17. 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 18. 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 19. 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 20. 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 21. Petitioner is a 45-year-old citizen and national of Eritrea.

6 22. Petitioner entered that United States on or about January 10, 2015, at Veterans Internation
7 Bridge, Texas. He was detained in Los Fresno, Texas.

8 23. Petitioner applied for asylum, withholding of removal, and protection under the
9 Convention Against Torture and an immigration judge denied his applications on April 3, 2015,
10 and was ordered removed to Eritrea. His removal order became final on May 4, 2015.

11 24. At some point after he was ordered removed, Petitioner was placed on an was placed on an
12 Order of Supervision, assuming that DHS could not effectuate his removal to Eritrea.

13 25. For over ten years, Petitioner fully complied with his supervision while building a life in
14 the United States. He has a United States citizen wife and daughter.

15 26. On September 10, 2025, ICE issued a “Notice of Revocation of Release” which was not
16 presented to Petitioner until he was re-detained on October 17, 2025, after his interview for his
17 then-pending adjustment of status application. He was transported to NWIPC in Tacoma,
18 Washington, where he remains to this day.

19 27. Petitioner claimed he received a very truncated “informal interview” in which he was asked
20 to provide a “good reason” why he should not be detained.

21 28. Prior to Petitioner’s detention, ICE did not provide him with adequate notice and
22 opportunity to respond to the revocation.

23 29. Petitioner has been detained for over a month.

MEMORANDUM OF LAW

Due Process Principles

30. Due process and DHS' own regulations require that if DHS/ICE seeks to revoke an order of supervision for someone like Petitioner—who has previously been given an order of supervision that he has not violated—the government must conduct an individualized determination about the likelihood of removal based on changed circumstances, followed by a notice and opportunity to respond. *See* 8 C.F.R. §§ 241.13(f), (i); 241.4(l).

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

32. Noncitizens, even those subject to a final removal order, are entitled to due process, “[f]reedom from . . . government custody . . . lies at the heart of the liberty that the [Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

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

34. Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability to be gainfully

1 employed and live with family, “and its termination inflicts a ‘grievous loss’ on the [released
2 individual] and often on others.” *Id.*

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

7 36. Due process protects against deprivation of liberty without proper process, and this
8 protection extends to deportation proceedings. U.S. Const. amend. V. (“No person shall be . . .
9 deprived of life, liberty, or property, without due process of law[.]”); *Trump v. J.G.G.*, 145 S. Ct.
10 1003, 1006, 221 L. Ed. 2d 529 (2025) (“It is well established that the Fifth Amendment entitles
11 aliens to due process of law’ in the context of removal proceedings.” (quoting *Reno v. Flores*, 507
12 U.S. 292, 306, (1993))).

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

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

20 39. The *Phetsadakone* court recognized that “[w]hen ICE revokes supervised release,
21 regulations appear to require an individual determination about the likelihood of removal based
22 on changed circumstances, followed by a notice and opportunity to respond.” *Id.* at *8 (citing 8
23 C.F.R. § 241.13(f), (i)). Without clear evidence that ICE made an individual determination

1 regarding the likelihood of Petitioner's removal and provided him with notice and opportunity to
2 respond, it is very likely ICE violated its own regulations and violated Petitioner's right to Due
3 Process.

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

10 41. The same and similar framework and principles apply here and compel Petitioner's
11 immediate release.

12 42. This Petition has been verified by Petitioner. *See* Verification of Petitioner.

13
14 **CLAIM FOR RELIEF**
15 **Violation of Fifth Amendment Right to Due Process**
16 **Procedural Due Process**

17 43. Petitioner restates and realleges all paragraphs as if fully set forth here.

18 44. Respondents violated multiple regulations in place designed to protect Petitioner's right to
19 due process. *See* 8 C.F.R. §§ 241.4(l); 241.13(f), (i).

20 45. Due process does not permit the government to strip Petitioner of his liberty without
21 following its own regulations by conducting an individual determination about the likelihood of
22 removal based on changed circumstances, followed by a notice and opportunity to respond if it
23 seeks to revoke an Order of Supervision. *See* 8 C.F.R. § 241.13(f), (i).

1 46. In relevant part, release may be revoked under 8 C.F.R. § 241.4 when the Executive
2 Associate Commissioner or a district director believes revocation "is appropriate to enforce a
3 removal order or to commence removal proceedings against [a noncitizen]." 8 C.F.R. §
4 241.4(l)(2)(iii). "Upon revocation," the noncitizen "will be notified of the reasons for revocation
5 of his or her release or parole" and "will be afforded an initial informal interview promptly after
6 his or her return to be given "an opportunity to respond to the reasons for revocation stated in the
7 notification." *Id.* § 241.4(l)(1).

8 47. Respondents violated § 241.4(l)(1) because upon the revocation notice being issued on
9 September 10, 2025, Petitioner was not informed of the revocation until October 17, 2025. On
10 that day, he was immediately taken into custody. Aside from being told to "provide a good reason"
11 why he should not remain in custody, Petitioner received no meaningful interview and opportunity
12 to respond.

13 48. Respondents revoked Petitioner's order of supervision and deprived him of liberty without
14 affording him individual determination and a notice and opportunity to respond, thereby making
15 his current detention unlawful. *See Minh Nhat Phan*, 2025 WL 2898977, at *9-10.

16 49. Further, "[t]he Service may revoke [a noncitizen's] release under this section and return the
17 [noncitizen] to custody if, on account of changed circumstances, the Service determines that there
18 is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable
19 future." 8 C.F.R. § 241.13(i)(2). This section has the same requirements as 8 C.F.R. § 241.4 in
20 that, "[u]pon revocation," the noncitizen "will be notified of the reasons for revocation of his or
21 her release" and "will be afforded an initial informal interview promptly after his or her return" to
22 be given "an opportunity to respond to the reasons for revocation stated in the notification." *Id.* at
23 § 241.13(i)(3).

1 50. Respondents have failed to show that "on account of changed circumstances, the Service
2 determine[d] that there is a significant likelihood that the [noncitizen] may be removed in the
3 reasonably foreseeable future." *Id.* at § 241.13(i)(2). And as discussed above, failed to provide an
4 interview and opportunity to respond, which "is reason enough to find Petitioner's detention
5 unlawful." *Minh Nhat Phan*, 2025 WL 2898977, at *11.

6 51. Accordingly, Petitioner's detention violates the Due Process Clause of the Fifth
7 Amendment.

8
9 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

10 52. Petitioner has exhausted all available administrative remedies that can provide the relief
11 he seeks. The government is allegedly detaining Petitioner pursuant to 8 U.S.C. §1231(a) and
12 thus he has no right to a bond hearing. *See also* 8 C.F.R. § 1241.8(a).

13
14 **IRREPARABLE INJURY**

15 53. Petitioner has suffered irreparable injury as a result of his detention. His detention separates
16 him from his U.S. citizen wife and child who rely on him for financial and emotional support. His
17 physical liberty continues to be restrained, and no just cause for doing so can be specified. "It is
18 well established that the deprivation of constitutional rights' unquestionably constitutes
19 irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v.*
20 *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 Petitioner from custody and permanently enjoin his re-detention during the pendency of this litigation;
- (4) Declare that Petitioner's detention without providing him an individualized determination and notice an opportunity to respond 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: November 19, 2025.

/s/ Hilary Smith

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