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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Yair Eduardo GRAJEDA Velazquez 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 02641 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241** **AGENCY FILE NO:** [redacted]

INTRODUCTION

1. This case challenges the unlawful re-detention of Yair Eduardo Gajeda Velazquez (Yair), a 19-year-old native of Mexico who came to the United States to seek asylum with his family in May of 2024.

2. The family presented themselves at a port of entry and were paroled into the United States. They attended their Master Calendar Hearing on December 3, 2025 in Seattle, Washington where the Immigration Judge set the case over for a final merits hearing on October 15, 2029.

3. After his arrival Yair was placed in the "Intensive Supervision Appearance Program" (ISAP) which requires regularly uploading a photo into the program's app. Mr. Grajeda complied with this requirement although there were times when the app did not properly function. In each of those cases Mr. Grajeda sent messages through the application's messaging function and he also called a local number of an ISAP officer report any app malfunctioning.

4. Yair was called to report to the Yakima ICE ERO office on Monday December 15, which he did. When he arrived he was handcuffed and arrested and told that he had failed to comply with his ISAP program.

5. Before re-detaining him on December 15, Respondents did not provide Yair with any written notice explaining the basis for detention, nor was a warrant or other evidence provided to counsel. The Respondents did not provide a hearing before a neutral decisionmaker where ICE was required to justify the basis for re-detention or explain why Yair is a flight risk or danger to the community.

6. As this Court has recently held in multiple cases, due process demands a hearing *prior* to the government's decision to terminate a person's liberty. *See E.A. T.-B. v. Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2–4 (W.D. Wash.

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Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13. Many other courts have recently held the same.

7. By failing to provide such a hearing, Respondents have violated Yair's constitutional right to due process.

8. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and order his immediate release. *See E.A. T.-B.* 2025 WL 2402130, at *6 (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty"); *Ramirez Tesara*, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar); *Ledesma Gonzalez*, 2025 WL 2841574, at *9 (similar).

JURISDICTION

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

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

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

VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

PARTIES

16. Yair is a 19 year old Mexican national. He is detained at the NWIPC.

17. Respondent Cammilla Wamsley is the Field Office Director for ICE's Seattle Field Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens

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charged with being removable from the United States. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal custodian of Petitioner and is sued in her official capacity.

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

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

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

FACTUAL BACKGROUND

22. Yair is a 19-year-old native of Mexico.

23. He came to the United States with the CBP One application in 2024 with his mother and siblings in order to apply for asylum.

24. Yair and his family have fully complied with all hearings, filing deadlines, and other requirements imposed by the respondents.

25. Yair and his family were initially detained by immigration officials in May of 2024 when they requested asylum. They were paroled into the United States to seek asylum in removal proceedings.

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26. Yair was called to report to the Yakima ERO office on Monday December 15. When he appeared he was handcuffed, arrested, and transferred to Tacoma, Washington.

27. Prior to Yair's re-arrest, he did not receive written notice of the reason for his re-detention.

28. Prior to Yair's re-arrest, ICE did not assess whether Yair presented a flight risk or danger to the community, or whether her re-arrest was justified for some other reason.

29. Prior to Yair's re-detention, he never received a hearing before a neutral decisionmaker to determine if her re-detention is justified.

LEGAL FRAMEWORK

Due Process Principles

30. Due process requires that if DHS seeks to re-arrest a person like Yair--who has lived in the United States without incident since his release from immigration custody in May of 2024, the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community.

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. 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).

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33. 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 employed and live with family, "and its termination inflicts a 'grievous loss' on the [released individual] and often on others." *Id.*

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

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

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

37. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework to hold that even in a case where the government asserted that mandatory detention initially applied, a person's re-detention could not occur absent a hearing. The Court did the same in *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez*. *See Ramirez Tesara*, 2025 WL 2637663, at *2–3; *Kumar*, 2025 WL 2677089, at *2–3; *Ledesma Gonzalez*, 2025 WL 2841574, at *7–8.

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

39. This Court applied a similar analysis in *Ramirez Tesara.* There, the Court reasoned that the petitioner had a "weighty" interest in his liberty and was entitled to the "full protections of the due process clause." 2025 WL 2637663, at *3. When examining the value of additional safeguards, the Court also noted that despite the government's allegations of ISAP violations, "the fact 'that the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.'" *Id.* at *4 (quoting *E.A. T.-B*, 2025 WL 2402130, at *4). Finally, the Court reasoned that any government interest in re-detention without a hearing was "minimal." *Id.* Accordingly, there too, the Court ordered the petitioner's immediate release. *Id.* at *5.

40. The *Kumar* and *Ledesma Gonzalez* courts reached the same decision, again holding that all three factors weighed in favor of affording the petitioner a bond hearing. 2025 WL 2677089, at *3–4; 2025 WL 2841574, at *7–9; *see also* Report & Recommendation, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13 (same).

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

42. The same framework and principles apply here and compel Yair's immediate release.

CLAIM FOR RELIEF
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

43. Yair restates and realleges all the prior paragraphs as if fully set forth herein.

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

45. Respondents revoked Yair's release and deprived him of liberty without providing her written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to her re-detention.

46. Accordingly, Yair's re-detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Yair respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

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(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, and ordering that they not transfer Yair out of this district during the pendency of the court's adjudication of this petition;

(3) Issue a Writ of Habeas Corpus ordering Respondents to Yair from custody immediately and permanently enjoining his re-detention during the pendency of his removal proceeding absent written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that she is a flight risk or danger to the community and that no alternatives to detention would mitigate those risks;

(4) Declare that Yair's re-detention while removal proceedings are ongoing without first providing an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;

(5) Award Yair's attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(6) Grant any further relief this Court deems just and proper.

Dated: Sunday, December 21, 2025

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