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5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON

8 Evangelina HERRERA Gomez

9 Petitioner,

10 v.

11 Camilla WAMSLEY, Seattle Field Office
12 Director, Enforcement and Removal Operations,
United States Immigration and Customs
13 Enforcement (ICE); Bruce SCOTT, Warden,
Northwest ICE Processing Center; Kristi
14 NOEM, Secretary, United States Department of
Homeland Security; Pamela BONDI, United
15 States Attorney General; UNITED STATES
DEPARTMENT OF HOMELAND
16 SECURITY;

17 Respondents.

Case No. 2:25-cv-2642

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

18 AGENCY FILE NO: 

1 **INTRODUCTION**

2 1. This case challenges the unlawful re-detention of Ms. Evangelina Herrera Gomez
3 (Ms. Herrera) a 48-year-old native of Mexico who came to the United States to seek asylum with
4 her husband and three children.

5 2. The family turned themselves over to border patrol and expressed a fear of return to
6 their native Mexico. They were detained and later released on their own recognizance on September
7 12, 2023. They were issued a “Notice to Appear” in immigration court, however, Ms. Herrera’s
8 notice does not appear to have been filed with the immigration court as she has never been
9 scheduled for a hearing date.¹

10 3. The family filed an asylum application with USCIS since their case was not showing
11 up in the EOIR system. Ms. Herrera was placed on the “Intensive Supervision Appearance
12 Program” by Immigration and Customs Enforcement. She was required to check-in with ICE and
13 to upload photos to their app, which she did.

14 4. On December 12, 2025 Ms. Herrera was arrested by ICE in Benton City,
15 Washington after dropping her children off at school. She was not given a reason or explanation for
16 the detention. She remains detained in Tacoma, Washington and has still not been scheduled for a
17 hearing.

18 5. Before re-detaining her on December 12, Respondents did not provide Ms. Herrera
19 with any written notice explaining the basis for detention, nor was a warrant or other evidence
20 provided to counsel. The Respondents did not provide a hearing before a neutral decisionmaker
21 where ICE was required to justify the basis for re-detention or explain why Ms. Herrera is a flight
22 risk or danger to the community.

23 _____
¹ The Notice to Appear lists a Master Calendar Hearing on October 24, 2023, however, according to the EOIR system there is no case information for Ms. Herrera, suggesting the NTA was never filed with the court.

1 11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
2 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C.
3 § 1651.

4 **VENUE**

5 12. Venue is proper because Ms. Herrera is in Respondents' custody at the NWIPC in
6 Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–
7 500 (1973), venue lies in the judicial district in which Ms. Herrera currently is in custody.

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

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

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

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

PARTIES

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2 16. Ms. Herrera is a 48-year old native of Mexico. She is detained in Tacoma,
3 Washington.

4 17. Respondent Cammilla Wamsley is the Field Office Director for ICE's Seattle Field
5 Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens
6 charged with being removable from the United States. The Seattle Field Office's area of
7 responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal custodian
8 of Petitioner and is sued in her official capacity.

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

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

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

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

FACTUAL BACKGROUND

20 22. Ms. Herrera is a 48-year-old native of Mexico.

21 23. She came to the United States in September of 2023 and was released after being
22 detained at the border with her husband and children.
23

1 24. Ms. Herrera has complied with all required check-ins and visits with ERO. Her
2 asylum application remains pending with USCIS. Nevertheless she detained without warning on
3 December 12 after dropping her children off at school.

4 25. Prior to Ms. Herrera's re-arrest, she did not receive written notice of the reason for
5 herre-detention.

6 26. Prior to her re-arrest, ICE did not assess whether Ms. Herrera presented a flight risk
7 or danger to the community, or whether her re-arrest was justified for some other reason.

8 27. Prior to Ms. Herrera's re-detention, she never received a hearing before a neutral
9 decisionmaker to determine if her re-detention is justified.

10 LEGAL FRAMEWORK

11 Due Process Principles

12 28. Due process requires that if DHS seeks to re-arrest a person like Ms. Herrera--who
13 has lived in the United States without incident since his release from immigration custody in
14 September of 2023, the government must afford a hearing before a neutral decisionmaker to
15 determine whether any re-detention is justified, and whether the person is a flight risk or danger to
16 the community.

17 29. "Freedom from imprisonment—from government custody, detention, or other
18 forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause."
19 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the "the most
20 elemental of liberty interests." *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see also*
21 *Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner had "an exceptionally strong
22 interest in freedom from physical confinement").
23

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

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

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

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

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

23 35. 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

1 detention initially applied, a person’s re-detention could not occur absent a hearing. The Court did
2 the same in *Ramirez Tesara, Kumar, and Ledesma Gonzalez*. See *Ramirez Tesara*, 2025 WL 2637663, at
3 *2–3; *Kumar*, 2025 WL 2677089, at *2–3; *Ledesma Gonzalez*, 2025 WL 2841574, at *7–8.

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

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

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

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

12 40. The same framework and principles apply here and compel Ms. Herrera’s immediate
13 release.

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

17 41. Ms. Herrera restates and realleges all the prior paragraphs as if fully set forth herein.

18 42. Due process does not permit the government to re-detain Ms. Herrera and strip her
19 of her liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker to
20 determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at
21 487–88. Such written notice and a hearing must occur *prior* to any re-detention.

22 43. Respondents revoked Ms. Herrera’s release and deprived her of liberty without
23 providing her written notice and a meaningful opportunity to be heard by a neutral decisionmaker
prior to her re-detention.

1 44. Accordingly, Ms. Herrera's re-detention violates the Due Process Clause of the Fifth
2 Amendment.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Ms. Herrera respectfully requests that this Court:

- 5 (1) Assume jurisdiction over this matter;
- 6 (2) Issue an Order to Show Cause ordering Respondents to show cause within three days as
7 to why this Petition should not be granted as required by 28 U.S.C. § 2243, and ordering
8 that they not transfer Ms. Herrera out of this district during the pendency of the court's
9 adjudication of this petition;
- 10 (3) Issue a Writ of Habeas Corpus ordering Respondents to Herrera from custody
11 immediately and permanently enjoining his re-detention during the pendency of her
12 removal proceeding absent written notice and a hearing prior to re-detention where
13 Respondents must prove by clear and convincing evidence that she is a flight risk or
14 danger to the community and that no alternatives to detention would mitigate those
15 risks;
- 16 (4) Declare that Ms. Herrera's re-detention while removal proceedings are ongoing without
17 first providing an individualized determination before a neutral decisionmaker violates
18 the Due Process Clause of the Fifth Amendment;
- 19 (5) Award Ms. Herrera's attorney's fees and costs under the Equal Access to Justice Act, and
20 on any other basis justified under law; and
- 21 (6) Grant any further relief this Court deems just and proper.

22 Dated: Sunday, December 21, 2025

23 s/ Stephen C. Robbins

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PET. FOR WRIT OF HABEAS CORPUS - 9
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