

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Yency Elizabeth PALENCIA and Liliana
RAMIREZ MORENO,

Petitioners,

v.

Laura HERMOSILLO, Seattle Acting 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; UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General;

Respondents.

Case No. 2:25-cv-2669

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

INTRODUCTION

1
2 1. This case challenges Respondents' unlawful detention of Petitioners Yency
3 Elizabeth Palencia and Liliana Ramirez Moreno. Both Petitioners are currently in the physical
4 custody of Respondents at the Northwest ICE Processing Center (NWIPC).

5 2. Each Petitioner was previously apprehended and placed in removal proceedings.
6 Both Petitioners were ordered removed. However, after those orders were issued, both
7 Petitioners were released under orders of supervision, providing them the opportunity to submit
8 applications for lawful status. Both filed applications for U nonimmigrant status (U visa) as
9 victims of enumerated violent crimes under 8 U.S.C. § 1101(a)(15)(U)(iii) who assisted with the
10 investigation and prosecution of the perpetrators.

11 3. The U visa applications provided both Petitioners an avenue to lawfully remain in
12 the United States despite their prior removal orders. Indeed, both Petitioners disclosed their prior
13 removal orders in their U visa application, yet were subsequently determined to have bona fide
14 applications and granted deferred action and employment authorization.

15 4. Despite the fact that both Petitioners have been found to have bona fide U visa
16 applications and granted deferred action, and despite Petitioners' compliance with the terms of
17 supervision while released, Department of Homeland Security (DHS) abruptly and unlawfully
18 re-detained them.

19 5. Prior to re-detaining each Petitioner, Respondents did not provide any written
20 notice explaining the basis for terminating deferred action or revoking their release. The lack of
21 notice was especially critical because U.S. Citizenship and Immigration Services (USCIS) had
22 already determined that each Petitioner's U visa application satisfies the bona fide standard and
23 granted deferred action.

1 6. As this Court has recognized, “deferred action prevents recipients’ removal from
2 the United States.” *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 912 (W.D. Wash. 2025)
3 (granting preliminary injunctive relief). Thus, “the Government has no legal basis to detain” an
4 individual with deferred action status. *Sepulveda Ayala v. Bondi*, No. 2:25-cv-01063-JNW-TLF,
5 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025) (granting writ of habeas corpus); *see also*,
6 *e.g.*, *Aguilar Gama v. Bondi*, No. 2:25-CV-01925-TL, 2025 WL 3559942, at *4 (W.D. Wash.
7 Dec. 12, 2025) (similar); *see also, e.g.*, *B.D.A.A. v. Bostock*, No. 6:25-CV-02062-AA, 2025 WL
8 3484912, at *7 (D. Or. Dec. 4, 2025) (“[B]y detaining her without prior notice and hearing[,]”
9 Respondents . . . nullified Petitioner’s bona fide U visa determination and its attendant benefits,
10 including Petitioner’s work authorization and deferred action status without due process.”).

11 7. In addition, Respondents did not assess whether Petitioners presented a flight risk
12 or danger to the community prior to their re-detention. Nor did Respondents provide a hearing
13 before a neutral decisionmaker, where Immigration and Customs Enforcement (ICE) was
14 required to justify re-detention by establishing that each Petitioner now poses a flight risk or
15 danger to the community.

16 8. As this Court has recently held in multiple cases, due process demands a hearing
17 prior to the government’s decision to terminate a person’s liberty. *See, e.g., E.A. T.-B. v.*
18 *Wamsley*, 795 F. Supp. 3d 1316, 1321–24 (W.D. Wash. 2025); *Ramirez Tesara v. Wamsley*, ---
19 F. Supp. 3d ---, 2025 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v.*
20 *Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7,
21 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D.
22 Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-
23 01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13; *Y.M.M. v. Wamsley*, No. 2:25-CV-

1 02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025); *P.T. v. Hermosillo*, No. C25-
2 2249-KKE, 2025 WL 3294988, at *4 (W.D. Wash. Nov. 26, 2025); Order, *Francois v. Wamsley*,
3 No. 2:25-cv-02122-RSM-GJL (W.D. Wash. Dec. 5, 2025), Dkt. 22 at 8. Many other courts have
4 recently held the same.

5 9. By failing to provide a pre-deprivation hearing, Respondents have violated
6 Petitioners' constitutional rights to due process.

7 10. Accordingly, this Court should grant the instant petition for a writ of habeas
8 corpus and order Petitioners' immediate release.

9 JURISDICTION

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

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

15 13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
16 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C.
17 § 1651.

18 VENUE

19 14. Venue is proper because both Petitioners are in Respondents' custody at the
20 NWIPC in Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*,
21 410 U.S. 484, 493–500 (1973), venue lies in the judicial district in which Petitioners are
22 currently in custody.
23

15. 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

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents “forthwith,” unless Petitioners are not entitled to relief. 28 U.S.C. § 2243.

17. 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

18. Petitioner Yency Elizabeth Palencia is a citizen of El Salvador. She is detained at the NWIPC.

19. Petitioner Liliana Ramirez Moreno is a citizen of Honduras. She is detained at the NWIPC.

20. Respondent Laura Hermosillo is the Acting Seattle Field Office Director for ICE Enforcement and Removal Operations (ERO). The Seattle Field Office is responsible for local

1 custody decisions relating to noncitizens charged with being removable from the United States.

2 The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington.

3 Respondent Hermosillo is a legal custodian of Petitioners and is sued in her official capacity.

4 21. Respondent Bruce Scott is employed by the private corporation The GEO Group,
5 Inc., as Warden of the NWIPC, where Petitioners are detained. He has immediate physical
6 custody of Petitioners. He is sued in his official capacity.

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

11 23. Respondent U.S. Department of Homeland Security (DHS) is the federal agency
12 responsible for implementing and enforcing the INA, including the detention and removal of
13 noncitizens.

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

16 **FACTUAL BACKGROUND**

17 **Petitioner Yency Elizabeth Palencia**

18 25. Petitioner Yency Elizabeth Palencia is a citizen of El Salvador who entered the
19 United States around October 2015. She was apprehended at that time and placed in removal
20 proceedings. She applied for asylum, and her application was denied, resulting in a final order of
21 removal dated November 3, 2017.

22 26. Ms. Palencia was subsequently granted a stay of removal on February 6, 2018,
23 allowing her to remain with her family while she applied for a U visa, based on her eligibility for

1 U visa relief as the parent of a child who was the victim of qualifying criminal activity as
2 enumerated under 8 U.S.C. § 1101(a)(15)(U)(iii).

3 27. Ms. Palencia was released on an order of supervision and required to enroll in the
4 Intensive Supervision Appearance Program (ISAP), an ICE program that uses case management
5 and monitoring technology to ensure noncitizens comply with immigration orders

6 28. Ms. Palencia submitted her U visa application on March 2, 2018. On July 19,
7 2019, she was granted deferred action, signifying USCIS determined her to be eligible and
8 placed her on the waiting list for the U visa, which has an annual numerical cap. In the
9 meantime, she was granted employment authorization valid from April 15, 2024, to April 14,
10 2028.

11 29. On December 18, 2025, Ms. Palencia appeared for a routine ISAP check-in,
12 where she was abruptly detained and transferred to ICE custody in Tukwila, Washington, and
13 then transferred to the NWIPC in Tacoma, Washington.

14 30. Ms. Palencia has no criminal history.

15 31. Prior to Ms. Palencia's re-arrest on December 18, 2025, she did not receive
16 written notice of the reason for her re-detention.

17 32. Prior to Ms. Palencia's re-arrest, ICE did not assess whether she presented a flight
18 risk or danger to the community.

19 33. Prior to Ms. Palencia's re-arrest, she was not afforded a hearing before a neutral
20 decisionmaker to determine whether her re-detention was justified.

21 **Petitioner Liliana Ramirez Moreno**

22 34. Petitioner Liliana Ramirez Moreno is a citizen of Honduras who was removed in
23 or around July 2023. She re-entered later in 2023, at which time she was detained at the border

1 and then issued an order reinstating her prior removal order. However, she was then flagged for a
2 reasonable fear screening based on the violence that she and her family faced in Honduras. ICE
3 released her on an order of supervision on October 27, 2023, pending the reasonable fear
4 determination.

5 35. Ms. Ramirez Moreno was then required to enroll in ISAP for ongoing
6 supervision.

7 36. In May 2023, Ms. Ramirez Moreno was the survivor of severe domestic violence,
8 including felony assault inflicting substantial bodily harm. The Seattle Police Department
9 certified that she was the victim of felony assault in the second degree, felony harassment, and
10 intimidation of a witness; the certification also confirmed that she had been helpful with the
11 investigation and prosecution against the perpetrator.

12 37. Ms. Ramirez Moreno is now the single mother of three young children, the
13 youngest of whom is only one year old and is a U.S. citizen.

14 38. On January 22, 2024, Ms. Ramirez Moreno applied for a U visa on behalf of
15 herself and her two oldest children.

16 39. Her application was reviewed and given a bona fide determination, meaning
17 USCIS determined that she demonstrated U visa eligibility and placed her on the waiting list for
18 the U visa, which has an annual numerical cap. In the meantime, she was granted employment
19 authorization, valid from September 18, 2025, to September 17, 2029.

20 40. On December 18, 2025, Ms. Ramirez Moreno appeared for a routine ISAP check-
21 in, where she was abruptly detained and transferred to ICE custody in Tukwila, Washington, and
22 then transferred to the NWIPC in Tacoma, Washington.

23 41. Ms. Ramirez Moreno has no criminal history.

1 42. Prior to Ms. Ramirez Moreno's re-arrest on December 18, 2025, she did not
2 receive written notice of the reason for her re-detention.

3 43. Prior to Ms. Ramirez Moreno's re-arrest, ICE did not assess whether she
4 presented a flight risk or danger to the community.

5 44. Prior to Ms. Ramirez Moreno's re-arrest, she was not afforded a hearing before a
6 neutral decisionmaker to determine whether her re-detention was justified.

7 LEGAL FRAMEWORK

8 Due Process Principles

9 45. Due process requires that if DHS seeks to re-arrest a person like Ms. Palencia or
10 Ms. Ramirez Moreno—individuals who were released and later granted deferred action and
11 employment authorization pending the final adjudication of their U visa applications, and have
12 lived in the United States without incident after their release, supporting their children and have
13 otherwise complied with the terms of their release—the government must afford a hearing before
14 a neutral decisionmaker to determine whether any re-detention is justified because the person is a
15 flight risk or danger to the community.

16 46. “Freedom from imprisonment—from government custody, detention, or other
17 forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.”
18 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is “the most
19 elemental of liberty interests.” *E.A. T.-B.*, 795 F. Supp. 3d at 1321 (quoting *Hamdi v. Rumsfeld*,
20 542 U.S. 507, 529 (2004)); *see also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the
21 petitioner had “an exceptionally strong interest in freedom from physical confinement”).
22
23

1 47. 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
3 U.S. 471, 482 (1972).

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

8 49. 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 50. 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.
14 *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law
15 is the opportunity to be heard . . . at a meaningful time in a meaningful manner.” (citation
16 modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to
17 determine whether there is probable cause or reasonable ground to believe that the arrested
18 parolee has committed . . . a violation of parole conditions” and that such determination be made
19 “by someone not directly involved in the case[.]” (citation modified)).

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

1 52. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S.
2 319 (1976), framework to hold that even in a case where the government asserted that mandatory
3 detention initially applied, a person’s re-detention could not occur absent a hearing. The Court
4 did the same in *Ramirez Tesara, Kumar, and Ledesma Gonzalez*. See *Ramirez Tesara*, 2025 WL
5 2637663, at *2–3; *Kumar*, 2025 WL 2677089, at *2–3; *Ledesma Gonzalez*, 2025 WL 2841574,
6 at *7–8.

7 53. In applying the three *Mathews* factors, the *E.A. T.-B.* court held that the petitioner
8 had “undoubtedly [been] deprive[d] . . . of an established interest in his liberty,” which, as
9 noted, “is the most elemental of liberty interests[.]” 795 F. Supp. 3d at 1321 (citation modified).
10 The Court further explained that even if detention was mandatory, the risk of erroneous
11 deprivation of liberty without a hearing was high because a hearing serves to ensure that the
12 purposes of detention—the prevention of danger and flight risk—are properly served. *Id.* at
13 1322–23. Finally, the Court explained that:

14 [T]he Government’s interest in re-detaining non-citizens previously released
15 without a hearing is low: although it would have required the expenditure of finite
16 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.

17 *Id.* at 1324. As a result, this Court ordered the petitioner’s immediate release. *Id.*

18 54. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court
19 reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full
20 protections of the due process clause.” 2025 WL 2637663, at *3. When examining the value of
21 additional safeguards, the Court also noted that despite the government’s allegations of ISAP
22 violations, “the fact ‘that the Government may believe it has a valid reason to detain Petitioner
23 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.*, 795 F. Supp. 3d at 1322). 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.

55. 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).

56. 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*, --- F. Supp. 3d ---, 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem*, 792 F.Supp.3d 1025 (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).

57. The same framework and principles apply here and compel the immediate release of both Petitioners.

58. These factors are especially salient where individuals have applied for a U visa, have received bona fide determinations, and have been granted deferred action.

59. Congress created the U visa as part of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), providing a path to lawful permanent residence (and ultimately, citizenship) for noncitizen survivors of qualifying crimes who assist law enforcement in investigating or prosecuting those crimes. *See* VTVPA, Pub. L. No. 106-386, § 1513(a)(2)(B), (b), 114 Stat. 1464, 1533–34; 8 U.S.C. § 1101(a)(15)(U).

1 60. Among Congress’s stated purposes in creating the U visa were (1) “to strengthen
2 the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic
3 violence, sexual assault, trafficking of [noncitizens], and other crimes . . . committed against
4 [noncitizens], while offering protection to victims of such offenses in keeping with the
5 humanitarian interests of the United States,” and (2) to “facilitate the reporting of crimes to law
6 enforcement officials by trafficked, exploited, victimized, and abused [noncitizens] who are not
7 in lawful immigration status.” VTPA § 1513(a)(2), 114 Stat. at 1533–34.

8 61. Underscoring the importance of encouraging noncitizen survivors of violence to
9 report crimes and work with law enforcement authorities, Congress authorized DHS to waive
10 virtually any ground of inadmissibility to U visa petitioners in the public interest. *Id.* § 1513(e),
11 114 Stat. at 1536; 8 U.S.C. § 1182(d)(14).

12 62. A noncitizen “who is the subject of a final order of removal, deportation, or
13 exclusion is not precluded” from applying for a U visa. 8 C.F.R. § 214.14(c)(1)(ii). While the
14 filing of a U visa petition does not alone protect against the execution of a removal order, the
15 applicant may seek a stay of removal. *Id.*

16 63. Moreover, “[a]ll eligible petitioners, who, due solely to the [annual] cap, are not
17 granted U-1 nonimmigrant status must be placed on a waiting list,” and the implementing
18 regulations further require that “USCIS will grant deferred action or parole to U-1 petitioners and
19 qualifying family members while the U-1 petitioner s and qualifying family members are on the
20 waiting list.” 8 C.F.R. § 214.14(d)(2). The regulation further provides that USCIS may grant
21 employment authorization to such individuals. *Id.*

22 64. Thus, eligible persons placed on the U visa waiting list must be granted deferred
23 action (or parole) while they await a final adjudication. As a result, Respondents cannot justify

the effectuation of a removal order as a basis to detain them because the deferred action and “deferred action prevents recipients’ removal from the United States.” *Sepulveda Ayala*, 794 F. Supp. 3d at 912; *see also, e.g., Aguilar Gama*, 2025 WL 3559942, at *4 (W.D. Wash. Dec. 12, 2025) (“Petitioner’s deferred action status prevents removal. As such, Respondents have no legal basis to detain Petitioner.”); *Primero v. Mattivelo*, 25-cv-11442-IT, 2025 WL 1899115, at *5 (D.Mass. July 9, 2025) (“[W]here Petitioner has shown that USCIS granted him deferred action . . . and where there is no indication that Petitioner’s case was reviewed prior to or since detaining him, Petitioner has shown that there is no significant likelihood of his removal in the reasonably foreseeable future.”); *Maldonado v. Noem*, No. 4:25-cv-2541, 2025 WL 1593133, at *2 (S.D. Tex. June 5, 2025) (finding that “detention and possible imminent deportation” of U visa applicant with deferred action likely violates due process); *cf. Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *14 (W.D. Tex. Oct. 2, 2025) (finding that grant of Deferred Action for Childhood Arrivals (DACA) rendered the petitioner’s “removal order . . . inexecutable” and ordering immediate release as “the appropriate remedy”); *Gamez Lira v. Noem*, 25-cv-08855-WJ-KK, 2025 WL 2581710 (D.N.M. Sept. 5, 2025) (same).

65. Other courts have similarly recognized that re-detention without notice and a hearing unlawfully nullifies the benefits of a bona fide U visa determination, “including . . . work authorization and deferred action status.” *See B.D.A.A.*, 2025 WL 3484912, at *7.

CLAIMS FOR RELIEF

Count I

Violation of Fifth Amendment Right to Due Process Procedural Due Process

66. Petitioners restate and reallege all prior paragraphs as if fully set forth herein.

68. Due process does not permit the government to re-detain Petitioners and strip them of their 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.

8 69. Respondents revoked Petitioners' releases and deprived them of liberty without
9 providing written notice and a meaningful opportunity to be heard by a neutral decisionmaker
10 prior to their re-detention.

11 70. Accordingly, Petitioners' re-detention violates the Due Process Clause of the Fifth
12 Amendment.

Count II
Violation of the Administrative Procedures Act
6 U.S.C. § 706(2)(A), (C)

15 71. Petitioners restate and reallege all prior paragraphs as if fully set forth herein.

72. Respondents' actions in detaining Petitioners for removal despite their deferred action status and employment authorization pending the final adjudication of their U visa applications, is arbitrary and capricious, an abuse of discretion, and not in accordance with the law.

73. Respondents' actions directly contrary the statutory U visa scheme, 8 U.S.C. § 1101(a)(15)(U), providing protection for noncitizens survivors of violent crimes who have cooperated with law enforcement. Respondents' actions also directly violate 8 C.F.R.

1 § 214.14(d)(2), which requires that the agency place eligible U visa petitioners on a waiting list
2 and grant deferred action while they await final adjudication.

3 74. Petitioners were granted deferred action and employment authorization pending
4 the final adjudication of their U visa petitions. Deferred action provides for protection from
5 removal.

6 75. Respondents have provided no legal basis for ending Petitioners' deferred action
7 prior to detaining them.

8 76. Respondents have provided no basis for detaining Petitioners in the first instance.

9 77. The APA requires that a reviewing court shall "hold unlawful and set aside
10 agency action, findings, and conclusions found to be—(A) arbitrary, capricious, an abuse of
11 discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2).

12 78. A reviewing court shall also "hold unlawful and set aside agency action, findings,
13 and conclusions found to be—(B) contrary to constitutional right, power, privilege, or
14 immunity." *Id.*

15 79. Respondents have deprived Petitioners of their liberty and the right to remain in
16 this country with their families pending final adjudication of their U visa applications without
17 any notice or hearing, in violation of their statutory and constitutional rights. Accordingly,
18 Respondents' actions should be held unlawful and set aside.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Petitioners respectfully request that this Court:

21 (1) Assume jurisdiction over this matter;

22 (2) Require Respondents to show cause within fourteen days of this Petition's filing as to
23 why this Petition should not be granted as required by 28 U.S.C. § 2243, and

1 permitting Petitioners to file a traverse within five days of Respondents' return, *see*
2 W.D. Wash. Gen. Order No. 10-25 & App. A;

3 (3) Issue an Order that prohibits Respondents from transferring Petitioners out of this
4 district during the pendency of the court's adjudication of this petition, or,
5 alternatively, order Respondents to notify Petitioners and their habeas counsel in
6 advance of any transfer or removal, *see* W.D. Wash. Gen. Order No. 10-25 & App. A;

7 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioners from
8 custody immediately and permanently enjoining their re-detention pending final
9 adjudication of their U visa petitions absent written notice and a hearing prior to re-
10 detention where Respondents must prove by clear and convincing evidence that each
11 Petitioner is a flight risk or danger to the community and that no alternatives to
12 detention would mitigate those risks;

13 (5) Order that upon Petitioners' release, Respondents must return to Petitioners any
14 personal property, including personal identification documents and employment
15 authorization documents;

16 (6) Declare that the re-detention of Petitioners while their U visa petitions are pending
17 final adjudication violates the INA, the implementing regulations, and the Due
18 Process Clause of the Fifth Amendment;

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

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

22 Respectfully submitted this 23rd day of December, 2025.

23 s/ Matt Adams

s/ Leila Kang

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7 *Counsel for Petitioners*