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5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON

8 Emirhan ASLAN

9 Petitioner,

10 v.

11 Cammilla 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-2698

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

AGENCY FILE NO: 

1 INTRODUCTION

2 1. This case challenges the unlawful re-detention of Mr. Emirhan Aslan (Mr. Aslan), a
3 23-year-old native of Turkey who came to the United States to seek asylum in January of 2024.

4 2. Mr. Aslan turned himself over to Border Patrol near Tecate, California. He was
5 detained for several days before being released and placed in removal proceedings where he applied
6 for asylum.

7 3. On December 11 Mr. Aslan was re-detained by Immigration and Customs
8 Enforcement at a routine check-in he attended with his wife. Officers claimed that Mr. Aslan had
9 missed a scheduled check-in, a claim that he denies.

10 4. Before re-detaining him on December 11, Respondents did not provide Mr. Aslan
11 with any written notice explaining the basis for detention, nor was a warrant or other evidence
12 provided to counsel. The Respondents did not provide a hearing before a neutral decisionmaker
13 where ICE was required to justify the basis for re-detention or explain why Mr. Aslan is a flight risk
14 or danger to the community.

15 5. As this Court has recently held in multiple cases, due process demands a hearing *prior*
16 to the government's decision to terminate a person's liberty. *See E.A. T.-B. v. Wamsley*, --- F. Supp. 3d
17 --- No. C25-1192-KKE, 2025 WL 2402130, at *2-6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v.*
18 *Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2-4 (W.D. Wash.
19 Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7-
20 -9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089,
21 at *2-4 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-
22 cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13. Many other courts have recently held the
23 same.

1 6. By failing to provide such a hearing, Respondents have violated Mr. Aslan's
2 constitutional right to due process.

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

8 JURISDICTION

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

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

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

17 VENUE

18 11. Venue is proper because Mr. Aslan is in Respondents' custody at the NWIPC in
19 Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
20 500 (1973), venue lies in the judicial district in which Mr. Aslan currently is in custody.

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

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

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

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

9 **FACTUAL BACKGROUND**

10 21. Mr. Aslan came to the U.S. in January of 2024 to seek asylum. He was detained for
11 several days and released. He was placed in removal proceedings where he filed his asylum
12 application.

13 22. According to Mr. Aslan he attended two in-person appointments with the
14 Immigration and Customs Enforcement (ICE) office in Tukwila, Washington following his release.
15 He claims he was not given any additional check-ins or requirements following his second
16 appointment sometime in or around mid-2024.

17 23. In October of 2024 Mr. Aslan's spouse, Sila Yildirim also came to the United States
18 to apply for asylum. She was also detained and later released with an ankle monitor and regular
19 check-in requirements.¹

20 24. While Mr. Aslan was unaware of any check-in requirements in *his* case, he always
21 attended his spouses's check-ins and he estimates that he went in person to the Tukwila ICE office
22

23 ¹ Ms. Yildirim is also detained at the Northwest ICE Processing Center and is filing a concurrent habeas petition. *See*,
Case No. 2:25-cv-2696

1 approximately 25-30 times between October of 2024 and his arrest in December of 2025. He
2 regularly interacted with officers during this time.

3 25. On December 11, 2025 Mr. Aslan and his wife attended her regular check-in
4 appointment. They were both arrested and remain detained at the Northwest ICE Processing
5 Center.

6 26. Mr. Aslan and his wife have committed no crimes in the United States and are
7 otherwise not accused or suspected of being a danger to their community.

8 27. Mr. Aslan and his wife have fully complied with all hearings, filing deadlines, and
9 other requirements imposed by the respondents.

10 28. Prior to Mr. Aslan's re-arrest, he did not receive written notice of the reason for his
11 re-detention.

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

14 30. Prior to Mr. Aslan's re-detention, he never received a hearing before a neutral
15 decisionmaker to determine if her re-detention is justified.

16 LEGAL FRAMEWORK

17 Due Process Principles

18 31. Due process requires that if DHS seeks to re-arrest a person like Mr. Aslan—who has
19 lived in the United States without incident since his release from immigration custody in November
20 of 2023, the government must afford a hearing before a neutral decisionmaker to determine whether
21 any re-detention is justified, and whether the person is a flight risk or danger to the community.

22 32. "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."

23 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the "the most

1 elemental of liberty interests.” *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see also*
2 *Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner had “an exceptionally strong
3 interest in freedom from physical confinement”).

4 33. Consistent with this principle, individuals released on parole or other forms of
5 conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408 U.S.
6 471, 482 (1972).

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

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

15 36. Due process thus guarantees notice and an individualized hearing before a neutral
16 decisionmaker to assess danger or flight risk before the revocation of an individual’s release. *Goldberg*
17 *v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the
18 opportunity to be heard . . . at a meaningful time in a meaningful manner.” (citation modified)); *see*
19 *also, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to determine whether there is
20 probable cause or reasonable ground to believe that the arrested parolee has committed . . . a
21 violation of parole conditions” and that such determination be made “by someone not directly
22 involved in the case” (citation modified)).
23

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

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

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

20 40. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court reasoned
21 that the petitioner had a "weighty" interest in his liberty and was entitled to the "full protections of
22 the due process clause." 2025 WL 2637663, at *3. When examining the value of additional
23 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

1 obligation to effectuate the detention in a manner that comports with due process.” *Id.* at *4
2 (quoting *E.A. T-B*, 2025 WL 2402130, at *4). Finally, the Court reasoned that any government
3 interest in re-detention without a hearing was “minimal.” *Id.* Accordingly, there too, the Court
4 ordered the petitioner’s immediate release. *Id.* at *5.

5 41. The *Kumar* and *Ledesma Gonzalez* courts reached the same decision, again holding that
6 all three factors weighed in favor of affording the petitioner a bond hearing. 2025 WL 2677089, at
7 *3–4; 2025 WL 2841574, at *7–9; *see also* Report & Recommendation, *Lopez Reyes*, No. 2:25-cv-
8 01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13 (same).

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

16 43. The same framework and principles apply here and compel Mr. Aslan’s immediate
17 release.

18 **CLAIM FOR RELIEF**
19 **Violation of Fifth Amendment Right to Due Process**
20 **Procedural Due Process**

21 44. Mr. Aslan restates and realleges all the prior paragraphs as if fully set forth herein.

22 45. Due process does not permit the government to re-detain Mr. Aslan and strip him of
23 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.

1 46. Respondents revoked Mr. Aslan's release and deprived him of liberty without
2 providing him written notice and a meaningful opportunity to be heard by a neutral decisionmaker
3 prior to his re-detention.

4 47. Accordingly, Mr. Aslan's re-detention violates the Due Process Clause of the Fifth
5 Amendment.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Mr. Aslan respectfully requests that this Court:

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

1 Dated: Wednesday, December 24, 2025

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