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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CARLOS ESQUIVEL-MENDOZA
Petitioner

v.

BRUCE SCOTT,
Warden, Northwest ICE Processing
Center;
CAMILLA WAMSLEY,
Seattle Field Office Director,
Enforcement and Removal Operations,
U.S. Immigration and Customs
Enforcement;
TODD M. LYONS,
Acting Director,
U.S. Immigration and Customs
Enforcement;
KRISTI NOEM,
Secretary,
U.S. Department of Homeland Security;
PAMELA BONDI,
Attorney General of the United States,

Respondents.

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

INTRODUCTION

1. This petition challenges the unlawful civil re-detention of Petitioner Carlos Mendoza Esquivel, a native and citizen of Mexico. He is an asylum seeker whose immigration case is pending before the United States Court of Appeals for the Ninth Circuit. Petitioner is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Northwest ICE Processing Center in Tacoma, Washington, after living in the community since 2014 under an Order of Supervision without incident.

2. On August 13, 2025, Petitioner was taken into immigration custody at a routine ICE check-in. He was detained without advance notice, a written custody determination, or a pre-deprivation hearing. He was not charged with any crime and was not alleged to have violated the conditions of his supervision. He has remained detained since that date.

3. Petitioner is a civil immigration detainee with severe mental illness. He has been diagnosed with schizophrenia, major depressive disorder with psychotic features, and post-traumatic stress disorder. He has a history of psychotic episodes, persecutory delusions, and command hallucinations directing self-harm, and he has previously been found mentally incompetent in immigration proceedings. [REDACTED]

[REDACTED]

[REDACTED]

4. Petitioner’s continued confinement violates the Due Process Clause of the Fifth Amendment and governing regulation on three independent grounds.

5. First, it violates substantive due process because civil immigration detention must remain non-punitive and reasonably related to a legitimate regulatory purpose, and detention

1 under conditions that foreseeably exacerbate severe psychiatric illness and suicidal
2 ideation is not reasonably related to such a purpose.

3 6. Second, it violates procedural due process because, after years of lawful release under
4 supervision beginning in 2014, Petitioner's conditional liberty interest was terminated
5 without notice and without any individualized determination, prior to detention, that
6 renewed custody was justified.

7 7. Third, Petitioner's re-detention violates the post-final-order detention framework set forth
8 in 8 C.F.R. § 241.13, because DHS re-detained him after years of supervised release
9 without providing the notice, custody review, or opportunity to respond required by
10 regulation..

11 8. For these reasons, Petitioner respectfully seeks immediate release from immigration
12 detention.

13 JURISDICTION AND AUTHORITY

14 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in federal
15 custody and challenges the legality of his present physical detention as violating the
16 Constitution and laws of the United States.

17 10. Jurisdiction is also proper under 28 U.S.C. § 1331 and Article I, Section 9, Clause 2 of
18 the United States Constitution (the Suspension Clause), which preserve the availability of
19 habeas corpus to test the lawfulness of executive detention.

20 11. This Court has authority to grant relief pursuant to 28 U.S.C. § 2241 and the Declaratory
21 Judgment Act, 28 U.S.C. § 2201 et seq., to the extent declaratory relief is necessary or
22 appropriate to effectuate habeas relief.

12. Jurisdiction is proper notwithstanding 8 U.S.C. §§ 1252(b)(9) and 1252(g) because Petitioner does not seek review of removal proceedings or any final order of removal. He challenges only the statutory and constitutional authority for his present detention. In these circumstances, habeas jurisdiction under § 2241 remains available. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006).

13. Jurisdiction and venue are proper in this District because Petitioner is detained within the Western District of Washington, and his immediate custodian is subject to this Court’s jurisdiction. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).

VENUE

14. Venue is proper in this Court pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(e) because Petitioner is detained within the Western District of Washington at the Northwest ICE Processing Center in Tacoma, Washington, and Respondents exercise custody and control over Petitioner within this District.

15. Venue is independently proper under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), which holds that a habeas petition may be brought in the district where the petitioner is confined and where the petitioner’s custodian is subject to the court’s jurisdiction.

16. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers or agencies of the United States acting in their official capacities, and a substantial part of the events and omissions giving rise to Petitioner’s detention-only claims occurred within this District, including Petitioner’s arrest, detention, and continued confinement.

REQUIREMENTS OF 28 U.S.C. § 2243

17. Under 28 U.S.C. § 2243, the Court must either grant the petition for a writ of habeas corpus or order Respondents to show cause forthwith, unless it appears from the petition that the petitioner is not entitled to relief. If an order to show cause is issued, Respondents must file a return within three days, unless the Court, for good cause, allows additional time not to exceed twenty days.
18. Habeas corpus is intended to provide a swift and effective remedy for unlawful detention. As the Supreme Court has explained, it is “perhaps the most important writ known to the constitutional law,” because it affords a “swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). Consistent with that purpose, the Ninth Circuit has emphasized that habeas petitions require prompt judicial attention and expedited resolution. *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000).

PARTIES

19. Petitioner Carlos Mendoza Esquivel is a native and citizen of Mexico who is currently detained by the Department of Homeland Security (“DHS”) at the Northwest ICE Processing Center in Tacoma, Washington.
20. Respondent Bruce Scott is the Warden of the Northwest ICE Processing Center in Tacoma, Washington, and is sued in his official capacity. As Warden, Respondent Scott is the immediate physical custodian of Petitioner and is responsible for Petitioner’s detention. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).
21. Respondent Camilla Wamsley is the Seattle Field Office Director, Enforcement and

Removal Operations, U.S. Immigration and Customs Enforcement (“ICE”). She is responsible for immigration detention and custody decisions within the Seattle Field Office, including at the Northwest ICE Processing Center. Respondent Wamsley is a legal custodian of Petitioner and is sued in her official capacity.

22. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As Acting Director of ICE, he is responsible for policies and practices governing the civil detention of noncitizens, including Petitioner’s detention. He is a legal custodian of Petitioner and is sued in his official capacity.

23. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security. She is responsible for the administration and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the agency responsible for Petitioner’s detention. She has ultimate custodial authority over Petitioner and is sued in her official capacity. See 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1.

24. Respondent Pam Bondi is the Attorney General of the United States. She oversees the United States Department of Justice, including its component agencies, such as the Executive Office for Immigration Review and the immigration court system. She is sued in her official capacity. See 8 U.S.C. §§ 1103(a)(1), 1103(g).

25. Each Respondent is sued solely in his or her official capacity. At all relevant times, Respondents have acted or failed to act under color of federal law in maintaining Petitioner’s detention.

FACTUAL AND PROCEDURAL BACKGROUND

26. Petitioner is a 49-year-old native and citizen of Mexico who first entered the United

1 States without inspection in approximately 1992. He suffers from Major Depressive
2 Disorder with psychotic features, Schizophrenia, Paranoid type, Post Traumatic Stress
3 Disorder, permanent memory loss, and chronic headaches.

4 27. On August 13, 1999, Petitioner pled guilty in the United States District Court for the
5 Western District of Washington to one count of possession of cocaine with intent to
6 distribute, in violation of 21 U.S.C. §§ 841(a) and 841(b)(1)(C). Although the applicable
7 sentencing guideline range was 37 to 48 months, the court granted a downward departure
8 based on substantial assistance and imposed a sentence of 30 months' imprisonment.

9 Petitioner was removed to Mexico in approximately 2000.

10 28. In 2014, while in Mexico, Petitioner was beaten and threatened by criminal actors acting
11 in concert with police, sustaining a head injury that caused permanent memory loss and
12 chronic headaches. Mexican authorities refused protection and advised him to flee.
13 Petitioner returned to the United States and sought asylum.

14 29. On July 24, 2014, Petitioner presented at a port of entry and requested asylum. On August
15 7, 2014, an asylum officer found that he had established credible fear, and removal
16 proceedings commenced on August 13, 2014.

17 30. During removal proceedings, significant concerns arose regarding Petitioner's mental
18 competency. On August 4, 2017, the Department of Homeland Security moved to reopen
19 proceedings to address competency. After remand, the Immigration Judge conducted a
20 competency hearing on March 28, 2018, and found Petitioner incompetent to proceed.

21 Psychiatric records confirmed diagnoses of Schizophrenia, Paranoid type, Major
22 Depressive Disorder with psychotic features, and Post Traumatic Stress Disorder,

1 including prior hospitalization for acute psychosis with command hallucinations directing
2 self-harm.

3 31. On March 28, 2018, the Immigration Judge denied withholding of removal and protection
4 under the Convention Against Torture. On November 19, 2020, the Board of Immigration
5 Appeals dismissed Petitioner's appeal. Petitioner filed a petition for review with the
6 Ninth Circuit on December 1, 2020, which remains pending following reopening in
7 September 2024.

8 32. Following agency proceedings, Petitioner was released from immigration custody and
9 lived in the community under an Order of Supervision for several years without incident.

10 33. On or about August 13, 2025, during a routine ICE check-in, Petitioner was taken into
11 custody without prior written notice, without any allegation that he violated supervision,
12 and without any opportunity to be heard. He has remained detained since that date.

13 34. Since his re-detention, Petitioner has psychiatrically decompensated. He has expressed
14 suicidal ideation, [REDACTED]

15  Medical staff designated Petitioner as Mental Health Level 3, reflecting a
16 determination that he requires acute and intensive psychiatric care due to a significant risk
17 of self-harm. Petitioner remains detained at the Northwest ICE Processing Center.

18 **COUNT 1**

19 **Violation of the Fifth Amendment Due Process Clause**

20 35. Petitioner seeks immediate release from custody because DHS violated the Fifth
21 Amendment's Due Process Clause when it re-arrested and detained Petitioner on August
22 13, 2025, after more than eleven years of lawful supervision in the community. First,

1 DHS violated substantive due process by re-detaining Petitioner when detention was no
2 longer reasonably related to a legitimate immigration purpose. Second, DHS violated
3 procedural due process by revoking Petitioner's long-standing liberty without notice and
4 without a meaningful opportunity to be heard. Third, DHS violated governing post-order
5 custody regulations, including 8 C.F.R. §§ 241.13 and 241.4, which were promulgated to
6 protect liberty interests when previously authorized release is withdrawn.

7 36. Federal district courts have authority to grant a writ of habeas corpus where a person "is
8 in custody in violation of the Constitution or laws or treaties of the United States." 28
9 U.S.C. § 2241(a), (c)

10 37. The Fifth Amendment's Due Process Clause applies to all persons within the United
11 States, including noncitizens in civil immigration custody. *Zadvydas v. Davis*, 533 U.S.
12 678, 693 (2001). Because immigration detention is civil rather than criminal, it is
13 constitutionally permissible only so long as it remains nonpunitive and reasonably related
14 to a legitimate governmental purpose, and only if it is imposed through constitutionally
15 adequate procedures. *Id.* at 690; *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

16 38. Freedom from physical restraint lies at the core of the liberty protected by the Due
17 Process Clause. *Zadvydas v. Davis*, 533 U.S. at 690. A statute permitting indefinite civil
18 detention therefore raises serious constitutional concerns. *Id.* Civil detention violates the
19 Fifth Amendment unless it occurs pursuant to a criminal proceeding with full procedural
20 protections, *United States v. Salerno*, 481 U.S. 739, 746 (1987), or under narrow,
21 nonpunitive circumstances supported by a distinct justification outweighing the
22 individual's liberty interest, *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

39. Those narrow circumstances generally involve tightly regulated civil commitment regimes supported by specific findings and heightened safeguards. *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997). Outside those confined contexts, civil detention that inflicts serious harm without advancing its regulatory purpose violates substantive due process.

1. Substantive Due Process

40. Petitioner seeks immediate release because, under the Fifth Amendment's Due Process Clause, his continued detention is no longer reasonably related to a legitimate immigration purpose and has instead become punitive and medically dangerous in effect.

41. Under the substantive component of the Fifth Amendment's Due Process Clause, civil immigration detention violates the Constitution when it ceases to advance its regulatory purpose and instead inflicts serious harm. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

42. Here, DHS re-arrested Petitioner on August 13, 2025, after he had lived in the community for over eleven years under an Order of Supervision without incident. During that period, Petitioner complied with all conditions of supervision, committed no new crimes, and posed no identified risk to public safety. DHS did not allege any violation of supervision and identified no change in circumstances that would justify incarceration rather than continued supervised release. Under these facts, detention no longer advances removal or any other legitimate civil objective.

43. Detention has also become affirmatively harmful. Since re-detention, Petitioner has psychiatrically decompensated. He suffers from schizophrenia, major depressive disorder with psychotic features, and post-traumatic stress disorder. Following his re-arrest,

1 Petitioner expressed suicidal ideation, attempted to harm himself using a razor, and was
2 placed on suicide watch. Medical staff designated Petitioner Mental Health Level 3,
3 reflecting a determination that he requires acute and intensive psychiatric care due to a
4 significant risk of self-harm. DHS's continued confinement therefore exposes Petitioner
5 to serious and foreseeable medical danger.

6 44. Moreover, DHS is not detaining Petitioner pursuant to any civil commitment statute and
7 has not obtained findings of dangerousness supported by the heightened safeguards the
8 Constitution requires. Instead, DHS relies solely on general immigration detention
9 authority, even though detention itself is the source of the medical crisis. Under the Fifth
10 Amendment, civil detention that inflicts serious harm while failing to serve its regulatory
11 purpose is unconstitutional, even if statutory authority for detention exists. *Zadvydas*, 533
12 U.S. at 690.

13 45. Courts in the Western District of Washington have granted habeas relief on materially
14 similar facts. In *Todd v. Bondi*, No. 2:25-cv-02519-JHC (W.D. Wash. Jan. 20, 2026), the
15 court ordered release where DHS re-detained a noncitizen after many years of successful
16 supervision without demonstrating that renewed detention was reasonably related to a
17 legitimate regulatory purpose. Similarly, in *Wana v. Bondi*, No. 2:25-cv-02321-RSL
18 (W.D. Wash. Dec. 15, 2025), the court granted habeas relief where DHS revoked
19 supervision despite years of compliance and no changed circumstances. And in *Rodriguez*
20 *Jimenez v. Bondi*, No. C25-2167-RSM (W.D. Wash. Dec. 3, 2025), the court emphasized
21 that detention following lengthy community release cannot be justified by the mere
22 existence of a final order of removal.

1 46. As in those cases, detention here has ceased to function as a civil regulatory measure. In
2 addition, unlike many re-detention cases, the harm here is acute and documented:
3 continued confinement has coincided with severe psychiatric decompensation and an
4 active suicide risk.

5 47. Additionally, at the time of Petitioner's re-detention and throughout his continued
6 confinement, Petitioner's Petitions for Review and motion for stay of removal have been
7 pending before the Ninth Circuit. While that stay request remains pending, removal
8 cannot lawfully proceed. Where removal is not presently executable, it is not reasonably
9 foreseeable, and continued detention cannot be justified as necessary to effectuate
10 removal under *Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001).

11 48. Assuming arguendo that DHS retains statutory detention authority, the Fifth Amendment
12 independently forbids continued detention under these circumstances. Substantive due
13 process therefore requires Petitioner's immediate release from custody..

14 **2. Procedural Due Process**

15 49. Separately and independently, Petitioner seeks immediate release because DHS violated
16 procedural due process under the Fifth Amendment when it revoked his long-standing,
17 government-authorized liberty without notice and without a meaningful opportunity to be
18 heard.

19 50. Under the Fifth Amendment, procedural due process is required whenever the
20 government seeks to deprive a person of physical liberty. At its core, due process requires
21 notice and an opportunity to be heard at a meaningful time and in a meaningful manner.
22 *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). When the government affirmatively

1 confers liberty and later withdraws that liberty through detention, due process requires
2 procedures sufficient to guard against erroneous or arbitrary confinement. *Morrissey v.*
3 *Brewer*, 408 U.S. 471, 482 (1972).

- 4 51. Courts assess the adequacy of procedural protections by balancing three factors: (1) the
5 private interest affected, (2) the risk of erroneous deprivation under the procedures used
6 and the value of additional safeguards, and (3) the government's interest. *Mathews*, 424
7 U.S. at 335.
- 8 52. Courts in the Western District of Washington have consistently applied this framework to
9 challenges arising from immigration re-detention following supervised release. See, e.g.,
10 *Todd v. Bondi*, No. 2:25-cv-02519-JHC (W.D. Wash. Jan. 20, 2026); *E.A. T.-B. v.*
11 *Wamsley*, 795 F. Supp. 3d 1316, 1321–23 (W.D. Wash. 2025); *Ramirez Tesara v.*
12 *Wamsley*, 800 F. Supp. 3d 1130, 1135–38 (W.D. Wash. 2025); *Kumar v. Wamsley*, 2025
13 WL 2677089, at *2–3 (W.D. Wash. Sept. 17, 2025).

14 a. Private Interest

- 15 53. The private interest at stake is significant. Freedom from physical confinement lies at the
16 core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678,
17 690 (2001); *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). That interest retains
18 constitutional protection even when liberty is conditional. When the government permits
19 a person to live in the community subject to conditions, that conditional liberty “is
20 valuable and must be seen as within the protection of the Due Process Clause.”
21 *Morrissey*, 408 U.S. at 482.

- 22 54. Here, in or around 2014, DHS released Petitioner into the community under an Order of

Supervision and permitted him to remain at liberty for more than eleven years. That course of conduct carried an implied promise that Petitioner would not be re-arrested or detained absent a violation of the conditions of supervision or a material change in circumstances. From 2014 through August 13, 2025, Petitioner complied with all reporting requirements, maintained a known address, and was never alleged to have violated supervision. DHS repeatedly accepted his compliance and declined to re-detain him.

55. Petitioner relied on that government-authorized liberty and structured his life accordingly. He established deep family and community ties, maintained full-time employment as a field worker, and served as the primary financial provider for his household. He supports his wife and five children, three of whom are minors. His wife suffers from severe rheumatoid arthritis, which limits her ability to work and makes the family dependent on Petitioner's income for basic living expenses. Petitioner also maintained continuity of mental health care in the community for schizophrenia, major depressive disorder with psychotic features, and post-traumatic stress disorder.

56. On August 13, 2025, DHS withdrew that long-standing liberty while Petitioner was complying with supervision, arresting him at a routine ICE check-in without notice or any allegation of noncompliance. The withdrawal of years of relied-upon liberty through physical confinement constitutes a grievous loss. *Morrissey*, 408 U.S. at 482. This factor weighs heavily in Petitioner's favor.

b. Risk of Erroneous Deprivation

57. The second *Mathews* factor examines the risk that the procedures used will result in an

erroneous deprivation of liberty and the value of additional safeguards. *Mathews*, 424 U.S. at 335.

58. That risk was high here. Petitioner was re-detained on August 13, 2025, without advance notice, without a written custody determination, and without any opportunity to respond. DHS made no individualized assessment of flight risk, danger to the community, or changed circumstances. Detention was imposed first, without any pre-deprivation process.

59. Courts have recognized that this sequence presents a substantial risk of error. In *Valdez v. Joyce*, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025), the court held that re-detention without changed circumstances or procedure creates a high risk of erroneous deprivation. Courts in this District have reached the same conclusion where DHS re-detains individuals following prolonged supervised release without notice or an opportunity to be heard. *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316 (W.D. Wash. 2025)

60. The risk of error was further heightened by what DHS knew at the time of re-detention. Petitioner's severe mental illness and prior incompetency finding required careful, individualized decision-making. Instead, DHS proceeded summarily. The resulting harm was immediate: following re-detention, Petitioner psychiatrically decompensated and was placed on suicide watch.

61. By contrast, the value of additional safeguards was substantial. Even minimal procedures, such as notice of the basis for re-detention and an opportunity to respond, would have allowed Petitioner to demonstrate his long-standing compliance and the absence of any changed circumstances justifying redetention. This factor strongly favors Petitioner.

1 c. Government's Interest

2 62. The third *Mathews* factor considers the government's interest and the administrative
3 burdens of additional procedures. *Mathews*, 424 U.S. at 335.

4 63. The government's general interests include ensuring appearance at proceedings and
5 protecting the community. *Zadvydas*, 533 U.S. at 690. Those interests are not
6 meaningfully advanced by summary re-detention on these facts. DHS managed Petitioner
7 through community supervision for more than eleven years, during which he consistently
8 appeared for check-ins and was never alleged to have violated conditions or posed a
9 danger.

10 64. There was no imminent removal scheduled at the time of re-detention and no allegation
11 that Petitioner was a flight risk. Courts have repeatedly rejected the notion that providing
12 notice and an individualized custody determination imposes a significant administrative
13 burden. Custody hearings are routine, and the government's interest in detaining a
14 petitioner without a hearing is low. *E.A. T.-B.*, 795 F. Supp. 3d at 1323; *Todd v. Bondi*;
15 *Carballo v. Andrews*, 2025 WL 2381464, at *8 (E.D. Cal. Aug. 15, 2025); *Ortega v.*
16 *Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

17 65. Requiring minimal procedural safeguards would not impede enforcement. It would
18 simply require DHS to justify detention through an individualized determination rather
19 than default incarceration.

20 d. Balancing the *Mathews* Factors

21 66. When the *Mathews* factors are balanced, they favor Petitioner. Petitioner's liberty interest
22 is substantial. The risk of erroneous deprivation is significant where DHS withdraws

1 long-standing conditional liberty without notice or an opportunity to be heard. At the
2 same time, the government's interests can be adequately protected through procedures
3 requiring individualized justification for detention.

4 67. Accordingly, DHS's summary re-detention of Petitioner—by revoking his liberty without
5 notice and without a meaningful opportunity to be heard—violates the Due Process
6 Clause of the Fifth Amendment.

7 3.Failure to Follow Governing Regulations Pursuant to 8 C.F.R. §§ 241.13 and 241.4

8 68. Independently, Petitioner seeks immediate release because DHS failed to follow its own
9 regulations governing post-order custody and supervision under 8 C.F.R. §§ 241.13 and
10 241.4, resulting in unlawful detention in violation of the Fifth Amendment.

11 69. As a threshold matter, due process is violated when an agency fails to comply with
12 regulations that were promulgated to protect individual liberty interests. *United States ex*
13 *rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Where a regulation governs the
14 withdrawal of previously authorized liberty, the agency's disregard of that regulation
15 renders the resulting detention unlawful. See *Montilla v. INS*, 926 F.2d 162, 169 (2d Cir.
16 1991). Courts in this District have applied that principle in the immigration re-detention
17 context. See *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324–26 (W.D. Wash. 2025);
18 *Todd v. Bondi*, No. 2:25-cv-02519-JHC (W.D. Wash. Jan. 20, 2026).

19 70. Here, Petitioner was subject to a final order of removal and released into the community
20 under an Order of Supervision beginning in 2014, placing his custody squarely within the
21 post-order detention framework governed by 8 C.F.R. §§ 241.13 and 241.4. Under 8
22 C.F.R. § 241.13, DHS may revoke a noncitizen's release and return the person to custody

only if, on account of changed circumstances, DHS determines that there is a significant likelihood of removal in the reasonably foreseeable future. Detention under this framework is not automatic. It requires an individualized determination tied to removal feasibility. See also 8 C.F.R. § 241.4.

71. Critically, the regulation also sets out mandatory procedures that must accompany any revocation of release. Upon revocation, DHS must notify the noncitizen of the reasons for revocation and must conduct an initial informal interview promptly after return to custody to afford the person an opportunity to respond. 8 C.F.R. § 241.13(h)(3). These procedural requirements are designed to prevent arbitrary re-detention and to ensure that custody remains reasonably related to a legitimate regulatory purpose.

72. Here, DHS did not comply with these requirements. On August 13, 2025, DHS re-detained Petitioner during a routine ICE check-in without prior written notice, without identifying any changed circumstances, and without determining that removal had become reasonably foreseeable after more than eleven years of supervised release. DHS did not allege that Petitioner violated supervision, committed any new offense, or posed a danger to the community. Nor did DHS provide any explanation suggesting that removal, which had not occurred for years, had suddenly become likely.

73. Moreover, DHS failed to follow the revocation procedures mandated by regulation. Petitioner was taken into custody without being notified of the reasons for revocation and without any opportunity to respond, either before or promptly after re-detention. No informal interview or individualized custody review occurred as required by 8 C.F.R. § 241.13(h)(3). Instead, detention was imposed summarily and without process.

74. Courts in the Western District of Washington have repeatedly held that this type of re-detention violates governing regulations and due process. In *E.A. T.-B. v. Wamsley*, the court granted habeas relief where DHS re-detained an individual following prolonged supervised release without complying with the post-order custody regulations. 795 F. Supp. 3d at 1324–26. Likewise, in *Todd v. Bondi*, the court emphasized that when DHS bypasses the regulatory safeguards governing re-detention, custody becomes unlawful from its inception.

75. Finally, the regulatory violation is especially significant on these facts. Petitioner lived in the community from 2014 to 2025, complied with all supervision requirements, and was re-detained while complying with those conditions. He also suffers from schizophrenia, major depressive disorder with psychotic features, and post-traumatic stress disorder, circumstances that underscore the need for individualized custody review. The safeguards DHS disregarded exist precisely to prevent arbitrary detention in situations such as this.

76. Because DHS failed to comply with 8 C.F.R. §§ 241.13 and 241.4 before revoking Petitioner’s liberty, his continued detention is unlawful and independently violates the Due Process Clause of the Fifth Amendment. This failure provides a separate and sufficient basis for habeas relief.

COUNT II

Violation of Article III and Separation of Powers Through Executive Defiance of Judicial

Authority

77. Petitioner seeks immediate release from custody because the Executive Branch has exceeded its constitutional authority and encroached upon the exclusive role of Article III

1 courts. Where the executive branch detains a person while openly disregarding binding
2 federal court decisions and insulating detention decisions from meaningful judicial
3 enforcement, continued confinement violates the Constitution's separation of powers and
4 renders executive adjudication constitutionally inadequate.

5 78. Article III of the United States Constitution vests the judicial power of the United States
6 exclusively in the federal courts. U.S. Const. art. III, § 1. That authority includes the
7 power to interpret the law and to ensure that executive detention complies with
8 constitutional limits. Habeas corpus serves as a core structural safeguard against
9 executive overreach by permitting courts to test the legality of detention and to order
10 release where constitutional violations persist. *Boumediene v. Bush*, 553 U.S. 723, 765
11 (2008).

12 79. Federal courts have repeatedly condemned executive branch detention practices that
13 operate in defiance of Article III authority. In *Maldonado Bautista v. Ernesto Santacruz*,
14 No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), the district court restored bond
15 eligibility after holding that the government's interpretation of detention authority was
16 unlawful. Despite entry of a final judgment, immigration adjudicators acting under
17 executive control declined to follow the court's nationwide ruling.

18 80. That executive defiance was addressed directly in *Inzunza v. Warden of Adelanto*
19 *Detention Facility et al.*, No. 5:26-cv-00078-SSS-BFM (C.D. Cal. Jan. 27, 2026), where
20 the court found that Respondents had "deliberate[ly]" continued to rely on legal
21 interpretations that had already been held unlawful. The court observed that "[d]espite the
22 final judgment in *Maldonado Bautista*, it appears that immigration judges continue to rely

on legal interpretations that were expressly found unlawful,” and collaterally estopped

Respondents from relitigating the issue.

81. Similarly, the United States District Court for the Western District of Texas granted habeas relief based on executive detention conducted in disregard of constitutional limits. In *Conejo Arias v. Noem*, No. SA-26-CV-415-FB (W.D. Tex. Jan. 31, 2026), Judge Fred Biery ordered immediate release, holding that “the Constitution of these United States trumps this administration’s detention” and emphasizing that “[a]dministrative warrants issued by the executive branch to itself do not pass probable cause muster.” The court further underscored that “[t]he Constitution requires an independent judicial office
82. Here, this Court can resolve Petitioner’s motion either by ordering his immediate release or by directing Respondent to provide him with a bond hearing before an immigration judge. However, Petitioner submits that immediate release is the appropriate remedy to safeguard against constitutional overreach by the executive branch and to preserve his constitutional rights to due process.
83. This Court can resolve Petitioner’s motion by either ordering his immediate release or directing Respondent to provide him with a bond hearing before an immigration judge. However, Petitioner submits that immediate release is the appropriate remedy to safeguard against constitutional overreach by the executive branch and to preserve his constitutional rights to due process.
84. Immigration judges are not part of the judicial branch. Rather, they are administrative employees of the Executive Office of Immigration Review (“EOIR”), an agency within the Department of Justice (“DOJ”), which operates under the executive branch. Exh. 5.

1 Although EOIR states that its mission is to adjudicate immigration cases “fairly,
2 expeditiously, and uniformly,”¹ this objective has been undercut by the current
3 administration’s hard-line immigration agenda, which includes a militarization of the
4 immigration court system, mass arrest and detention of immigrants, and encroachment on
5 federal judicial authority.

6 85. On June 27, 2005, the acting director of EOIR issued a nationwide memorandum to all
7 immigration judges accusing certain judges of bias against the administration, advising
8 those judges to consider another career, and threatening to terminate their employment.

9 Exh. 11. Following this memorandum, the Trump administration engaged in a mass
10 firing of judges who did not align with its mass deportation goals. Exhs. 6, 11.

11 86. Since 2025, the Trump administration has fired over 100 immigration judges without
12 cause and replaced them with temporary military lawyers. Exhs. 6, 7, 8, 11. “Most of the
13 judges fired either had higher rates of granting asylum, were former immigration defense
14 attorneys, or had dual citizenship.” Exh. 11. In doing so, the administration essentially
15 purged EOIR of immigration judges who did not align with or would not be willing to
16 advance the current administration’s policy objectives. Exhs. 6, 7, 8, 11. As a result, the
17 administration stripped EOIR of its status as a neutral arbitrator and reconstructed it as a
18 tool to advance anti-immigration policies.

19 87. Contemporaneous with the firings, the federal government published a solicitation for
20 “*deportation* judges” calling on “any attorneys,” including those with “*no immigration*

21
22 ¹ <https://www.justice.gov/eoir/about-office>

1 *experience*” to apply as temporary immigration judges. Exh. 6, 9. As of September 2025,
2 the Department of Defense (“DOD”) has approved sending up to 600 military lawyers to
3 serve as temporary immigration judges. Hiring military lawyers to act as temporary
4 immigration judges advances the perception that the purpose of these new judges is to
5 deport rather than to weigh each case on its merits. Exh. 8. This move further signals
6 this administration’s goal to use the immigration courts as a tool to advance its anti-
7 immigration policies.

- 8 88. What has resulted is an abuse of executive power in which EOIR has blatantly
9 circumvented the federal judiciary by ignoring court decisions. Exh. 5. This is clearly
10 demonstrated by the administration’s decision to arrest and subject millions of
11 immigrants, like Petitioner, to mandatory detention. Specifically, on July 8, 2025, ICE
12 issued an internal memorandum, deviating from long-standing precedent, calling for the
13 arrest and mandatory detention of millions of undocumented immigrants.² Exh. 4. The
14 BIA, which also falls under the purvey of the executive branch, codified mandatory
15 detention through its subsequent issuance of *Matter of Q.Li* and *Matter of Yure Hurtado*.
16 89. On December 18, 2025, the United States District Court for the Central District of
17 California, in *Maldonado Bautista*, entered a final judgment restoring bond eligibility for
18 the aforementioned individuals. Despite this, EOIR, again acting under the direction of
19 the executive branch, decided that it was not bound by the federal court’s ruling.

20
21 ² The Court in *Bautista* vacated DHS’ July 8, 2025 policy entitled “Interim Guidance
22 Regarding Detention Authority for Applicants for Admission,” under the Administrative
23 Procedure Act as not in accordance with law. However, DHS continues to engage in mass arrest
and detention of immigrants in violation of *Bautista*.

1 90. Specifically, on January 13, 2025, Chief Immigration Judge Teresa L. Riley issued a
2 nationwide guidance instructing all immigration judges not to follow *Maldonado Bautista*
3 stating it was not binding on the immigration courts. Exh. 4(a). **The failure by the**
4 **executive branch to recognize the validity of a decision by an Article III Court**
5 **amounts to constitutional overreach and encroaches on the judiciary's authority to**
6 **interpret the law.** Exh. 5.

7 91. On January 27, 2026, the United States District Central District Court of California
8 entered an order in *Inzuna v. Warden of Adelanto Detention Facility et al.*, 5:26-cv-
9 00078-SSS-BFM, in which it denounced the immigration judges' open defiance of
10 judicial orders. The Court recognized that Respondents have "deliberate[ly]" continued
11 to defy *Maldonado Bautista* and stated that "[d]espite the final judgement in *Bautista*,
12 **it appears that immigration judges continue to rely on legal interpretations that**
13 **were expressly found unlawful.**" Accordingly, the Court entered an order collaterally
14 estopping Respondents from relitigating whether Bond Eligible Class members are
15 entitled to relief.

16 92. EOIR's open defiance to the judiciary has extended beyond its refusal to comply with
17 *Maldonado Bautista*. Specifically, the Agency continues to advance the current
18 administration's anti-immigration agenda by denying bonds even after federal district
19 courts grant habeas petitions and order bond hearings. Although bond hearings are being
20 conducted, those hearings have amounted to nothing more than a pretense to comply with
21 a judicial order while simultaneously advancing this administration's agenda of continued
22 detention.

1 93. On a nationwide level, private attorneys have documented a complete disregard for the
2 law. Immigration judges frequently and erroneously place the burden of proof on
3 petitioners to establish that they are not a flight risk or danger to the community.

4 94. More problematic is the systematic denial of bonds by immigration judges based on an
5 baseless finding of “flight risk.” Exhs. 1, 2, 3, 3a. As reflected in the attached exhibits,
6 bond orders often state that the noncitizen has failed to establish that s/he is not a flight
7 risk without providing any reasoning or analysis. In most cases, the flight risk finding is
8 unsupported by the record as the detainees seeking bond had previously been released
9 from ICE custody on an order of supervision and complied with the terms of their release,
10 including appearing at all immigration court hearings and ICE check-ins. Most in fact,
11 were arrested while appearing for court or during an ICE check-in. Exh. 7.

12 95. This nationwide pattern of bond denials following habeas relief, based solely on meritless
13 findings of flight risk, suggests the existence of internal guidance directing immigration
14 judges to continue circumventing federal court orders, in the same manner in which they
15 were explicitly instructed to disregard the district court’s decision in *Maldonado Bautista*,
16 in order to continue to detain immigrants. In the words of a recently terminated
17 immigration judge, EOIR is “blatantly violating federal judicial orders.” Exh. 11.

18 96. Even assuming that certain factors exist that may affect an individual’s flight risk, a
19 determination that *no bond* could address those concerns is unreasonable. Immigration
20 judges have wide discretion to impose conditions of release, including higher bond
21 amounts or alternatives to detention such as electronic monitoring yet have elected not to
22 do. Rather, they have constructively continued to subject immigrants to mandatory

1 detention.

2 97. In Petitioner's specific case, the record reflects that he previously appeared ICE check-ins
3 and complied fully with the terms of supervised release.. Petitioner is affirmatively
4 seeking asylum in the United States and would not abscond and abandon the sole
5 mechanism by which he may lawfully remain in this country. Given that EOIR appears to
6 be acting under the direction of the current administration, its role as a neutral arbitrator is
7 questionable. This, together with the specific facts of Petitioner's case, warrants an order
8 for his immediate release.

9 CONCLUSION

10 98. For the reasons set forth above, Petitioner's continued detention is unlawful. DHS
11 re-arrested Petitioner after years of successful supervision in the community without
12 notice, without individualized justification, and without procedures sufficient to protect
13 against erroneous deprivation of liberty. That detention no longer advances any legitimate
14 immigration purpose and instead has become punitive and medically dangerous in effect,
15 in violation of the Fifth Amendment's Due Process Clause.

16 99. Independently, DHS failed to comply with governing post-order custody regulations and
17 acted in a manner that disregards the constitutional limits imposed by Article III. Where
18 executive officials operate in defiance of binding judicial authority, continued reliance on
19 executive adjudication cannot cure the resulting constitutional harm.

20 100. Because Petitioner's Petitions for Review and motion for stay of removal remain pending
21 before the Ninth Circuit, removal is not presently executable. In this posture, continued
22 detention serves no regulatory function and cannot be justified under governing law. No

1 additional administrative process can remedy these defects. Immediate judicial
2 intervention is therefore required.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Petitioner respectfully requests that this Court:

5 101. Grant the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241;

6 102. Order Petitioner's immediate release from ICE custody, subject to such reasonable
7 conditions of supervision as the Court deems appropriate;

8 103. Declare that Petitioner's re-arrest and continued detention violate the Fifth Amendment's
9 Due Process Clause and the separation of powers embodied in Article III of the United
10 States Constitution;

11 104. In the alternative, if the Court does not order immediate release, order Respondents to
12 provide Petitioner with an individualized custody hearing forthwith before a neutral
13 decision-maker at which: the Government bears the burden of justifying continued
14 detention by clear and convincing evidence; and less restrictive alternatives to detention
15 must be considered;

16 105. Order that any future arrest, detention, or custody determination involving Petitioner must
17 comply with the Constitution and governing law, including advance notice, an
18 individualized determination, and compliance with applicable regulations, including but
19 not limited to 8 C.F.R. §§ 241.4 and 241.13, while Petitioner's Petition for Review and
20 motion for stay of removal remain pending before the Ninth Circuit;

21 106. Award Petitioner reasonable attorney's fees and costs, including pursuant to the Equal
22 Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority;

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107. Award such other and further relief as the Court deems just and proper.

Dated: February 2, 2026

Respectfully Submitted,

/s/ *Theodora E. Adoghe*

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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under the penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpuses are true and correct.

Executed this 2nd day of February 2026.

/s/ Theodora E. Adoghe

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