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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON

9 Milcíndes José OSORIO Molina

10 Petitioner,

11 v.

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

22 Respondents.

Case No. 2:26-cv-95

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

AGENCY FILE NO. 

23 PET. FOR WRIT OF HABEAS CORPUS
Case No. 2:26-cv-95

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INTRODUCTION

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2 1. This case challenges the unlawful re-detention of Mr. Milciades Osorio Molina (Mr.
3 Osorio) a 48-year-old native of Venezuela who came to the United States to seek asylum in
4 September of 2023.

5 2. Mr. Osorio turned himself over to Border Patrol near Eagle Pass, Texas. He
6 expressed a fear of returning to Venezuela. He was detained for several days before being released
7 and placed in removal proceedings where he applied for asylum.

8 3. On December 24 Mr. Osorio was re-detained by Immigration and Customs
9 Enforcement as he was loading groceries into his car in a grocery store parking lot.

10 4. Before re-detaining him on December 24, Respondents did not provide Mr. Osorio
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. Osorio is a flight
14 risk 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 Tetana 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); *Ledema Gonzalez v. Bostick*, 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.

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

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

JURISDICTION

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

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

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

VENUE

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

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employers, 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

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

14. 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.” *Yang v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); see also *Van Hook v. Walker*, 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

15. Mr. Osorio is a 47-year-old native of Venezuela. He is detained at the NWIFC.

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

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

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. Osorio came to the U.S. in September of 2023 to seek asylum. He was detained
11 for several days and released. He was placed in removal proceedings before the Immigration Court
12 in Newark, New Jersey.

13 22. Mr. Osorio could not afford an attorney, so a "notario" helped him file a change of
14 address and motion to change venue with the Immigration Court when he moved to the Yakima,
15 Washington area. His case was transferred to the Seattle Immigration Court.

16 23. Mr. Osorio attending his biometrics appointment with USCIS, and otherwise
17 believed his case to be in good standing.

18 24. On December 24 Mr. Osorio was loading groceries into his car when officers from
19 the local Immigration and Customs Enforcement arrested him. He was told he has not properly
20 changed his address with Enforcement and Removal Operations.

21 25. Mr. Osorio has committed no crimes in the United States and is not otherwise
22 accused or suspected of being a danger to the community.

23 26. Mr. Osorio has fully complied with all hearings, filing deadlines, and other
requirements imposed by the respondents.

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

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

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

7 LEGAL FRAMEWORK

8 Due Process Principles

9 30. Due process requires that if DHS seeks to re-arrest a person like Mr. Osorio—who
10 has lived in the United States without incident since his release from immigration custody in 2023,
11 the government must afford a hearing before a neutral decisionmaker to determine whether any re-
12 detention is justified, and whether the person is a flight risk or danger to the community.

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

19 32. Consistent with this principle, individuals released on parole or other forms of
20 conditional release have a liberty interest in their "continued liberty." *Morrissey v. Brewer*, 408 U.S.
21 471, 482 (1972).

22 33. Such liberty is protected by the Fifth Amendment because, "although indeterminate,
23 [it] includes many of the core values of unqualified liberty," such as the ability to be gainfully

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

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

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

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

18 37. For example, in *E.A. T.R.*, this Court applied the *Mathew v. Elkhridge*, 424 U.S. 319
19 (1976), framework to hold that even in a case where the government asserted that mandatory
20 detention initially applied, a person's re-detention could not occur absent a hearing. The Court did
21 the same in *Ramirez Torres, Kumar, and Ledesma Gonzalez*. *See Ramirez Torres*, 2025 WL 2637663, at
22 *2-3; *Kumar*, 2025 WL 2677080, at *2-3; *Ledesma Gonzalez*, 2025 WL 2841574, at *7-8.

23 38. In applying the three *Mathew* factors, the *E.A. T.R.* court held that the petitioner
had "undoubtedly [been] deprived[d] . . . of an established interest in his liberty," 2025 WL 2402130,

1 at *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation modified). The Court
 2 further explained that even if detention was mandatory, the risk of erroneous deprivation of liberty
 3 without a hearing was high because a hearing serves to ensure that the purposes of detention—the
 4 prevention of danger and flight risk—are properly served. *Id.* at *4–5. Finally, the Court explained
 5 that “the Government’s interest in re-detaining non-citizens previously released without a hearing is
 6 low: although it would have required the expenditure of finite resources (money and time) to
 7 provide Prisoner notice and hearing on [ISAP] violations before arresting and re-detaining him,
 8 those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.”
 9 *Id.* at *5. As a result, this Court ordered the prisoner’s immediate release. *Id.* at *6.

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

19 40. The *Kumar* and *Ledema Gonzalez* courts reached the same decision, again holding that
 20 all three factors weighed in favor of affording the prisoner a bond hearing. 2025 WL 2677089, at
 21 *3–4, 2025 WL 2841574, at *7–9; see also *Report & Recommendation, Lopez Reyes*, No. 2:25-cr-
 22 01868-JLR-MLP (W.D. Wash. Oct. 13, 2025), Dkt. 13 (same).

23 41. This Court’s decisions in *E.A. T-B*, *Ramirez Torres*, *Kumar*, and *Ledema Gonzalez* are
 consistent with many other district court decisions addressing similar situations. See, e.g., *Valdez v.*

1 *Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate
2 release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-CV-
3 05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-
4 00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-
5 CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

6 42. The same framework and principles apply here and compel Mr. Osorio's immediate
7 release.

8 **CLAIM FOR RELIEF**
9 **Violation of Fifth Amendment Right to Due Process**
10 **Procedural Due Process**

11 43. Mr. Osorio restates and realleges all the prior paragraphs as if fully set forth herein.

12 44. Due process does not permit the government to re-detain Mr. Osorio and strip him
13 of his liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker to
14 determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at
15 487-88. Such written notice and a hearing must occur *prior* to any re-detention.

16 45. Respondents revoked Mr. Osorio's release and deprived him of liberty without
17 providing him written notice and a meaningful opportunity to be heard by a neutral decisionmaker
18 prior to his re-detention.

19 46. Accordingly, Mr. Osorio's re-detention violates the Due Process Clause of the Fifth
20 Amendment.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Mr. Osorio respectfully requests that this Court:

23 (1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause within three days as
to why this Petition should not be granted as required by 28 U.S.C. § 2243, and ordering

1 that they not transfer Mr. Osorio out of this district during the pendency of the court's
2 adjudication of this petition;

- 3 (3) Issue a Writ of Habeas Corpus ordering Respondents to Mr. Osorio from custody
4 immediately and permanently enjoining his re-detention during the pendency of his
5 removal proceeding absent written notice and a hearing prior to re-detention where
6 Respondents must prove by clear and convincing evidence that she is a flight risk or
7 danger to the community and that no alternatives to detention would mitigate those
8 risks;
- 9 (4) Declare that Mr. Osorio's re-detention while removal proceedings are ongoing without
10 first providing an individualized determination before a neutral decisionmaker violates
11 the Due Process Clause of the Fifth Amendment;
- 12 (5) Award Mr. Osorio's attorney's fees and costs under the Equal Access to Justice Act, and
13 on any other basis justified under law; and
- 14 (6) Grant any further relief this Court deems just and proper.

15 Dated: Saturday, January 10, 2026

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