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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON

9 Parviz SARWARI

10 Petitioner,

11 v.

12 Camilla WAMLEY, 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 BOND, United
19 States Attorney General; UNITED STATES
20 DEPARTMENT OF HOMELAND
21 SECURITY;

22 Respondents.

Case Number: 2:26-cv-121

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-121

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INTRODUCTION

1. This case challenges the unlawful re-detention of Mr. Farvaz Sarwari (Mr. Sarwari), a 49-year-old native of Afghanistan who came to the United States to seek asylum in January of 2023.

3. Mr. Sarwari turned himself over to Border Patrol near El Paso, Texas with his wife and their six children. He was detained for several days before being released. He was served a Notice to Appear, however, he was not scheduled for a hearing. Instead he filed his asylum application with USCIS in June of 2023.

4. On December 25 Mr. Sarwari was re-detained by Immigration and Customs Enforcement at his home in Oregon.

5. Before re-detaining him on December 25, Respondents did not provide Mr. Sarwari with any written notice explaining the basis for detention, nor was a warrant or other evidence provided to counsel. The Respondents did not provide a hearing before a neutral decisionmaker where ICE was required to justify the basis for re-detention or explain why Mr. Sarwari is a flight risk or danger to the community.

6. As this Court has recently held in multiple cases, due process demands a hearing prior to the government's decision to terminate a person's liberty. See *E.A. T.R. v. Wamsley*, __ F. Supp. 3d __, No. C25-1192-MKE, 2025 WL 2402130, at *2-6 (W.D. Wash. Aug. 19, 2025); *Kumar v. Wamsley*, __ F. Supp. 3d __, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2-4 (W.D. Wash. Sept. 12, 2025); *Ledezma Gonzalez v. Bostick*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7-9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-RAT, 2025 WL 2677089, at *2-4 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-

1 cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13. Many other courts have recently held the
2 same.

3 7. By failing to provide such a hearing, Respondents have violated Mr. Sarwari's
4 constitutional right to due process.

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

10 JURISDICTION

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

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

16 11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
17 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C.
18 § 1651.

19 VENUE

20 12. Venue is proper because Mr. Sarwari is in Respondents' custody at the NWIPC in
21 Tacoma, Washington. Pursuant to *Strader v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
22 500 (1973), venue lies in the judicial district in which Mr. Sarwari currently is in custody.

23 13. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(c) because
Respondents are employees, officers, and agencies of the United States, and because a substantial

1 part of the events or omissions giving rise to the claims occurred in the Western District of
2 Washington.

3 REQUIREMENTS OF 28 U.S.C. § 2243

4 14. The Court must grant the petition for writ of habeas corpus or issue an order to
5 show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief.
6 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within
7 three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

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

16 PARTIES

17 16. Mr. Sarwari is a 49-year-old native of Afghanistan. He is detained at the NWIPC.

18 17. Respondent Cammilla Wamsley is the Field Office Director for ICE’s Seattle Field
19 Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens
20 charged with being removable from the United States. The Seattle Field Office’s area of
21 responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal custodian
22 of Petitioner and is sued in her official capacity.
23

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

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

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

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

FACTUAL BACKGROUND

22. Mr. Sarwari came to the U.S. in January of 2023 to seek asylum. He was detained for several days and released. He was issued a Notice to Appear, but the paperwork was not properly filed with the Immigration Court. Mr. Sarwari filed his timely asylum application with USCIS.

23. Mr. Sarwari and his wife checked in regularly with ERO according to the requirements of their release.

24. Mr. Sarwari was arrested at his home on Christmas Day. He was not given an explanation for the detention.

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

26. Mr. Sarwari and his wife have fully complied with all hearings, filing deadlines, and other requirements imposed by the respondents.

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

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

29. Prior to Mr. Sarwari's re-detention, he never received a hearing before a neutral decisionmaker to determine if his re-detention is justified.

LEGAL FRAMEWORK

Due Process Principles

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

31. "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." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the "the most elemental of liberty interests." *E.A. T.-R.*, 2025 WL 2402130, at *3 (citation modified); *see also* *Reming-Tsarna*, 2025 WL 2637663, at *3 (stating that the petitioner had "an exceptionally strong interest in freedom from physical confinement").

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

33. Such liberty is protected by the Fifth Amendment because, "although indefinite, [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 "grave 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 "outweighs 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., Mathews*, 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 determinations 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.-B.*, this Court applied the *Mathews v. Eldridge*, 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 2677089, at *2-3; *Ledesma Gonzalez*, 2025 WL 2841574, at *7-8.

23 38. In applying the three *Mathews* factors, the E.A. T.-B. court held that the petitioner
had "undoubtedly [been] depriv[ed] . . . of an established interest in his liberty." 2025 WL 2402130.

at *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation modified). The Court further explained that even if detention was mandatory, the risk of erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.* at *4–5. Finally, the Court explained that “the Government’s interest in re-detaining non-citizens previously released without a hearing is low: although it would have required the expenditure of finite 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.” *Id.* at *5. As a result, this Court ordered the petitioner’s immediate release. *Id.* at *6.

39. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full protections of the due process clause.” 2025 WL 2637663, at *3. When examining the value of additional 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 obligation to effectuate the detention in a manner that comports with due process.” *Id.* at *4 (quoting *E.A. T.B.*, 2025 WL 2402130, at *4). 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.

40. 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).

41. 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.*

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. Sarwari's immediate
7 release.

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

11 43. Mr. Sarwari 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. Sarwari 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. Sarwari'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. Sarwari's re-detention violates the Due Process Clause of the Fifth
20 Amendment.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Mr. Sarwari 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. Sarwari 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. Sarwari 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. Sarwari'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. Sarwari'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: Wednesday, January 14, 2026

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