

**DETAINED**

Sam M Sueoka  
PO Box 18011  
Seattle, WA 98118  
808-729-1088  
ssueoka@proton.me  
  
Attorney for Petitioner

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
SEATTLE, WASHINGTON**

Oswal Ortiz,

Petitioner,

v.

Laura Hermosillo, Seattle Field Office  
Director, Enforcement and Removal  
Operations, United States Immigration and  
Customs Enforcement (ICE); Bruce SCOTT,  
Warden, Northwest ICE Processing Center;  
Kristi NOEM, Secretary, United States  
Department of Homeland Security; Pamela  
BONDI, United States Attorney General;  
UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY;

Respondents.

Case No.: 2:26-cv-00384-TL

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

Agency File Number:



**Brief Overview**

Mr. Ortiz, through undersigned counsel, submits the following amended petition pursuant to FRCP 15(a) as a matter of course. On February 2, 2026, Mr. Ortiz filed a Habeas Corpus Petition as a pro-se petitioner. Mr. Ortiz is currently detained at the Northwest ICE Processing

**AMENDED PETITION FOR WRIT OF HABEAS  
CORPUS  
(CASE NO. 2:26-cv-00384)  
Page - 1**

**Sam M Sueoka  
Counsel for Mr. Ortiz  
PO Box 18011  
Seattle, WA 98118  
ssueoka@proton.me**

1 Center in Tacoma, Washington. Mr. Ortiz retained undersigned counsel for the habeas action on  
2 February 5, 2026. Mr. Ortiz did not fully understand that what he had handwritten and filed was  
3 for a habeas petition. He was informed by another detainee that he should write a letter to a judge  
4 asking for help and was assisted by that detainee with the pro se habeas form. Mr. Ortiz is now  
5 represented by counsel and would like an opportunity for counsel to adequately file a habeas  
6 petition with the proper filings, evidence, and legal authority. Mr. Ortiz requests that the court  
7 strike his original petition for habeas corpus and consider only the amended petition for habeas  
8 corpus.

### 9 INTRODUCTION

10 This case challenges the unlawful re-detention of Mr. Oswal Ortiz, who entered the  
11 United States on September 11, 2023, to seek asylum. Upon entry, Mr. Ortiz was detained by  
12 Border Patrol and a two days later, on September 13, 2023, he was released on his own  
13 recognizance for the purpose of continuing his removal proceedings. In the years since his  
14 release, Mr. Ortiz has filed for asylum, complied with the check-in requirements imposed by  
15 Immigration and Customs Enforcement (ICE), attended his scheduled court hearings, and  
16 applied for employment authorization. Mr. Ortiz still has a pending asylum case.

17 On October 15, 2025, Mr. Ortiz arrived at the ICE office in Tukwila, Washington for a  
18 regularly scheduled ICE check-in. Mr. Ortiz checked into the front desk with security as he  
19 normally has in the past and then went upstairs to the waiting room as he usually does. Only this  
20 time, ICE officers did not call him immediately to fill out his paperwork but instead he waited  
21 until he was the only one left in the waiting room. Unidentified agents approached him and asked  
22 to speak with him in a private room in the back. Mr. Ortiz complied and walked into a private

1 room where he was surrounded by around 3-4 agents. The agents began to ask him questions and  
2 told him that he was under arrest because of his criminal history. It wasn't clear to Mr. Ortiz  
3 what criminal history they were talking about. Mr. Ortiz was placed in handcuffs and then taken  
4 to a vehicle where he was later transported to the Northwest ICE Processing Center (NWIPC).

5 Mr. Ortiz was never provided notice or an opportunity to be heard before a neutral  
6 decision maker before he was re-detained. Accordingly, this Court should grant the instant  
7 petition for a writ of habeas corpus and order his immediate release. *See E.A.T.-B* 2025 WL  
8 2402130, at \*6 (ordering immediate release because "a post-deprivation hearing cannot serve  
9 as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous  
10 deprivation of liberty"); *Ramirez Tesara*, at \*4 (similar); *Kumar*, 2025 WL 2677089, at \*3-4  
11 (similar); *Ledesma Gonzalez*, 2025 WL 2841574, at \*9 (relying on *E.A. T.-B.*).

### 12 JURISDICTION

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

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

18 3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et  
19 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. §  
20 1651.

21 4. No other petitions, appeals, or motions regarding habeas corpus have been filed  
22 with any other court.

VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

7. 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.*

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

PARTIES

1           9.     Petitioner Oswal Ortiz is a citizen of Venezuela who is presently detained at the  
2     NWPIC in Tacoma, Washington. Exhibit D.

3           10.    Respondent Laura Hermosillo is the Field Office Director for ICE's Seattle Field  
4     Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens  
5     charged with being removable from the United States. The Seattle Field Office's area of  
6     responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal  
7     custodian of Petitioner and is sued in her official capacity.

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

11          12.    Respondent Kristi Noem is sued in her official capacity as the Secretary of the  
12    Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all  
13    immigration enforcement in the United States.

14          13.    Respondent Pamela Bondi is sued in her official capacity as the Attorney General  
15    of the United States. She has responsibility over the Executive Office for Immigration Review,  
16    which decides removal cases and applications for relief from removal.

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

19                               **EVIDENCE RELIED UPON**

20           A. Declaration of Counsel

21           B. Declaration of Oswal Ortiz

22           C. Exhibit A. Notice to Appear

1 D. Exhibit B. I-213

2 E. Exhibit C. Order of The Immigration Judge Re. Franco

3 F. Exhibit D. Ice Detainee Locator

4 **FACTUAL BACKGROUND**

5 15. Mr. Ortiz is a 60-year-old citizen and national of Venezuela. *See* Declaration of  
6 Oswal Ortiz ("Ortiz Decl.") ¶ 1-2.

7 16. Mr. Ortiz fled Venezuela in 2022 due to being physically harmed and beaten by

8 [REDACTED] *Id* ¶ 5.

9 17. Mr. Ortiz believed that [REDACTED], so he  
10 traveled for about four months through Columbia, Panama, Costa Rica, Nicaragua, Honduras,  
11 Guatemala, and Mexico. *Id* ¶ 6.

12 18. Mr. Ortiz entered the United States on September 11, 2023, to seek asylum, and  
13 was subsequently apprehended by Border Patrol. Ex. A and B.

14 19. According to his arrest records, DHS issued Mr. Ortiz a Notice to Appear (NTA)  
15 in removal proceedings and released him on his own recognizance. Ex. B.

16 20. Following his release on recognizance, Mr. Ortiz relocated to Seattle,  
17 Washington. *See* Ortiz Decl. ¶ 9.

18 21. On December 30, 2023, Mr. Ortiz timely filed an application for asylum,  
19 withholding, and relief under the convention against torture. *Id* ¶ 12.

20 22. Mr. Ortiz subsequently applied for employment authorization with the intention  
21 of supporting himself while waiting for the final adjudication of his asylum application. *Id*. ¶ 13.

1           23. In the months that followed, Mr. Ortiz complied with the check-in requirements  
2 imposed by ICE as part of his release on recognizance. *Id.* ¶ 14.

3           24. On September 6, 2024, Mr. Ortiz was arrested by the Tukwila police department  
4 and subsequently charged with Assault in the Second-Degree, a class B felony. *Id.* ¶ 15.

5           25. Mr. Ortiz has no criminal history other than the pending Assault-2 charge which  
6 remains in the pre-trial phase of state criminal proceedings. *Id.* ¶ 17-18.

7           26. After Mr. Ortiz's arrest, ICE did not provide Mr. Ortiz with any notice or  
8 indication that his arrest was grounds for re-detention. *Id.* ¶ 27.

9           27. Instead, ICE merely increased the frequency of Mr. Ortiz's ICE check-ins from  
10 once every six months to once every month. *Id.* ¶ 20.

11           28. I attended every check-in from September 2024 to October 2025. *Id.*

12           29. Mr. Ortiz relied on his freedom and continued to live his life. *Id.* ¶ 20-21.

13           30. Mr. Ortiz continued to work, he connected with members of the community to  
14 help him with his asylum case. *Id.*

15           31. On October 15, 2025, over a year after the criminal arrest, ICE decided to re-  
16 arrest Mr. Ortiz during a routine ICE check-in at the Tukwila field office. *Id.* ¶ 21.

17           32. Prior to Mr. Ortiz's re-arrest, DHS did not request a hearing to assess before a  
18 neutral decision maker whether Mr. Ortiz presented a flight risk or danger to the community, or  
19 whether his re-arrest was justified for some other reason. *Id.* ¶ 27.

20           33. Prior to Mr. Ortiz's re-detention, he never received a hearing before a neutral  
21 decisionmaker to determine if his re-detention is justified. *Id.*



1           34.     DHS made no argument or motion in front of an IJ addressing release factors or  
2 any change in circumstance relating to Mr. Ortiz's release on personal recognizance. *Id.*

3           35.     Mr. Ortiz has never received an arrest record from Respondents or any  
4 documentation related to his October 15, 2025, re-detention. *Id.*

5           36.     During his time in custody, the Immigration Court has identified Mr. Ortiz as a  
6 potential *Franco v. Holder* class member due to mental health concerns raised by Mr. Ortiz's  
7 former immigration attorney. *Franco-Gonzalez v. Holder*, CV-10-02211 DMG DTBX, 2014 WL  
8 5475097 (C.D. Cal. Oct. 29, 2014). Ex. C.

9           37.     Mr. Ortiz was scheduled for a Master Calendar hearing on January 22, 2026,  
10 which was rescheduled for a Franco competency hearing for February 27, 2026.

11           38.     Mr. Ortiz filed his own petition for Habeas Corpus on February 2, 2026, as a pro  
12 se petitioner. Mr. Ortiz did not fully realize that what he had sent to the court was for a habeas  
13 corpus petition.

14           39.     On February 5, 2026, Mr. Ortiz retained undersigned counsel to represent him.

15           40.     On February 7, 2026, undersigned counsel filed his notice of appearance and  
16 notified the US Attorney's office via email.

17                               **MEMORANDUM OF LAW**

18           A. *Due Process Principles*

19           41.     Due process requires that if DHS seeks to re-arrest a person like Mr. Ortiz—who  
20 has lived in the United States for years after DHS first released him, and relied on his release  
21 thus creating a liberty interest in his freedom—the government must afford a hearing before a  
22



1 neutral decisionmaker to determine whether any re-detention is justified, and whether the person  
2 is a flight risk or danger to the community.

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

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

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

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

20 46. Due process thus guarantees notice and an individualized hearing before a neutral  
21 decisionmaker to assess danger or flight risk before the revocation of an individual’s release.  
22 *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law

1 is the opportunity to be heard...at a meaningful time in a meaningful manner.” (citation  
2 modified)); see also, e.g., *Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to  
3 determine whether there is probable cause or reasonable ground to believe that the arrested  
4 parolee has committed . . . a violation of parole conditions” and that such determination be made  
5 “by someone not directly involved in the case” (citation modified)).

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

9 48. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S.  
10 319 (1976), framework to hold that even in a case where the government asserted that mandatory  
11 detention applied, a person’s re-detention could not occur absent a hearing. The Court did the  
12 same in *Ramirez Tesara* and *Kumar*. See *Ramirez Tesara*, 2025 WL 2637663, at \*2–3; *Kumar*,  
13 2025 WL 2677089, at \*2–3.

14 49. In applying the three *Mathews* factors, the *E.A. T.B.* court held that the petitioner  
15 had “undoubtedly [been] deprive[d] . . . of an established interest in his liberty,” 2025 WL  
16 2402130, at \*3, which, as noted, “is the most elemental of liberty interests,” *Id.* (citation  
17 modified). The Court further explained that even if detention was mandatory, the risk of  
18 erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure  
19 that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.*  
20 at \*4–5. Finally, the Court explained that “the Government’s interest in re-detaining non-citizens  
21 previously released without a hearing is low: although it would have required the expenditure of  
22 finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations

1 before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous  
2 deprivation of the liberty interest at issue.” *Id.* at \*5. As a result, this Court ordered the  
3 petitioner’s immediate release. *Id.* at \*6.

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

13 51. This Court’s decisions in *E.A. T.-B.*, *Ramirez Tesara*, and *Kumar* are consistent  
14 with many other district court decisions addressing similar situations. See, e.g., *Valdez v. Joyce*,  
15 No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate  
16 release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-  
17 CV05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No.  
18 1:25- CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v.*  
19 *Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

20 52. The same framework and principles apply here and compel Mr. Ortiz’s immediate  
21 release. Even if Respondents argue that changed circumstances justify a custody redetermination  
22 or that Mr. Ortiz failed to adhere to the conditions of his release, the *Mathews* factors still weigh

1 in favor of providing Mr. Ortiz basic due process – such as written notice and a pre-detention  
2 hearing before a neutral decisionmaker. *See E.A.T.-B.*, 2025 WL 2402130, at \*4 (citing  
3 *Guillermo M.R. v. Kaiser*, --- F. Supp. 3d ---, No. 25-cv-05436-RFL, 2025 WL 1983677, at \*7  
4 (N.D. Cal. July 17, 2025)). Mr. Ortiz’s liberty interest in his freedom has been established, and it  
5 may only be revoked through methods that comport with due process. *See Padilla v. U.S.*  
6 *Immigr. & Customs Enf’t*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) (“The Supreme Court  
7 has consistently held that non-punitive detention violates the Constitution unless it is strictly  
8 limited, and, typically, accompanied by a prompt individualized hearing before a neutral  
9 decisionmaker to ensure that the imprisonment serves the government’s legitimate goals.”)  
10 (citations omitted)).

11 53. Here, Mr. Ortiz gained a liberty interest in his continued freedom when DHS  
12 released him on an OREC and through his conduct he relied on his release. Mr. Ortiz applied for  
13 asylum, obtained work authorization, and began building a life for himself in King County,  
14 Washington.

15 54. As to the second *Mathews* factor, civil immigration detention must be  
16 “nonpunitive in purpose” and bear a “reasonable relation” to the authorized statutory purposes of  
17 preventing flight and danger to the community. *Zadvydas*, 533 U.S. at 690 (citation omitted).  
18 Absent a pre-detention hearing in front of a neutral decisionmaker, the risk of erroneous  
19 deprivation of liberty is high given the possibility that Petitioner’s re-detention will not be  
20 pursuant to a valid state interest. A hearing would have likely revealed that Petitioner presents  
21 minimal risk to public safety and no risk of non-appearance, and the second factor favors the  
22 Petitioner.

1        55. The Government cannot show any countervailing interest against providing a pre-  
2 detention hearing. Immigration court custody hearings are routine and, in this case, does not  
3 present any significant delay in the Government's efforts to remove Mr. Ortiz. A detention for its  
4 own sake is not a legitimate governmental interest. *Pinchi v. Noem*, No. 5:25-cv-056320PCP,  
5 2025 WL 2084921, at 5 (N.D. Cal. July 24, 2025) ("Detention for its own sake, to meet an  
6 administrative quota, or because the government has not yet established constitutionally required  
7 pre-detention procedures is not a legitimate government interest."). The Mathews factors favor  
8 the Petitioner.

9        **B. Injunctive Relief**

10        56. Petitioners request as a prayer for relief that the Respondent's be permanently  
11 enjoined from re-detaining Mr. Ortiz absent written notice and a hearing prior to re-detention  
12 where Respondents must prove by clear and convincing evidence that his is a flight risk or  
13 danger to the community and that no alternative to detention would mitigate those risks.

14        57. The party seeking an injunction must convince the court that relief is needed and  
15 that "there exists some cognizable danger of recurrent violation, something more than the mere  
16 possibility which serves to keep the case alive." *Cummings v. Connell*, 316 F.3d 886, 897 (9th  
17 Cir. 2003) (quoting *United States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953)).

18        58. Mr. Ortiz is not requesting a blanket prohibition of re-detention under all  
19 circumstances but instead specifically request that the Respondent's be enjoined from re-  
20 detaining Mr. Ortiz in a same or similar manner as they have in this underlying habeas case.  
21 Here, Mr. Ortiz's October 15, 2025, regularly scheduled ICE check-in was used a trap to lure  
22 Mr. Ortiz into an ICE building where he was taken into custody without any procedural

1 safeguards. The Respondents have made it clear to this Court that despite several dozens of  
 2 habeas cases where this exact type of re-detention has been determined to violate the Due  
 3 Process clause of the Fifth Amendment, they do not intend on changing their re-detention  
 4 practices. See e.g., *Sira-Hurtado v. Hermosillo*, No. C25-2173-KKE, 2025 WL 3294986 (W.D.  
 5 Wash. Nov. 26, 2025) (holding that procedural due process was violated when Mr. Sira-Hurtado  
 6 was re-detained on June 3, 2025, at his immigration hearing without notice and an opportunity to  
 7 be heard.); See also *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316 (W.D. Wash. 2025) (holding  
 8 that procedural due process was violated when E.A.T.-B was re-detained on June 18, 2024,  
 9 without notice and an opportunity to be heard.)

10 59. Starting in July of 2024 with *E.A. T.-B*, habeas corpus petitions have proliferated  
 11 within the Western District of Washington. According to public database ‘Habeas Dockets’<sup>1</sup>  
 12 there are approximately 401 pending habeas petitions in the district. It has become clear that in  
 13 this District, due process requires that individuals similar to Mr. Ortiz receive notice and an  
 14 opportunity to be heard before he may be re-detained for alleged release violations.<sup>2</sup> See, e.g.,  
 15 *Llanes Tellez*, 2025 WL 3677937, at \*9 (“If the government wishes to re-detain [Petitioner], it  
 16 must provide him with the pre-detention hearing before a neutral decisionmaker required by due  
 17 process.”)

18 60. Although it has become clear that re-detention cases similar to Mr. Ortiz violates  
 19 due process, the Respondents continue to re-detain people like Mr. Ortiz and have no intention of  
 20 stopping. See e.g., *Petrov v. Hermosillo*, C25-2647-KKE, 2026 WL 98761 (W.D. Wash. Jan. 14,  
 21 2026) (holding that procedural due process was violated when Mr. Petrov was re-detained at his

22  
 23 <sup>1</sup> <https://habeasdockets.org> (last visited Feb 9 2026) (HabeasDockets.org is a public database that uses public records to document the number of habeas petitions in each state.)



1 ICE check-in on December 11, 2025, because he did not receive notice or an opportunity to be  
2 heard.).

3 61. The petitioner requests that this Court take judicial notice pursuant to FRE 201 of  
4 the number of re-detention cases where the judges in this district have granted habeas corpus  
5 petitions. FRE 201 allows courts to take judicial notice of a fact that is not subject to reasonable  
6 dispute. FRE 201. The amount of habeas corpus petitions dealing with a re-detention claim is  
7 something that is generally known within this trial court's territorial jurisdiction and can reliably  
8 be determined from the court's docket. The Respondent's conduct of continuing to re-detain  
9 individuals similarly situated to Mr. Ortiz, despite this District's rulings, is evidence of a pattern  
10 and practice that re-detention is a cognizable danger and not merely a possibility. The  
11 Respondents since the *E.A. T.-B* ruling its progeny have put ICE on notice that its practice of re-  
12 detention violates due process. The mere fact that ICE has not changed its practices to comport  
13 with the Court's rulings is evidence of a cognizable danger that Mr. Ortiz could be arbitrarily re-  
14 detained again without a permanent injunction.

### 15 EXHAUSTION OF ADMINISTRATIVE REMEDIES

16 62. Because current law governing the immigration court system subjects Mr. Ortiz to  
17 the mandatory detention scheme under 8 U.S.C. § 1225(b)(2)(A), *see Matter of Yajure Hurtado*,  
18 29 I&N Dec. 216 (BIA 2025) ("Immigration judges lack authority to hear bond requests or to  
19 grant bond to aliens who are present in the United States without admission."), seeking a bond  
20 hearing before an immigration judge is futile and would not allow for the consideration of Mr.  
21 Ortiz's release.



63. Mr. Ortiz requested a custody re-determination hearing on January 22, 2026, but the immigration court found that it did not have jurisdiction to entertain Mr. Ortiz's request.

64. Petitioner has exhausted all available administrative remedies that could provide the relief he seeks, and the Court should find that further administrative exhaustion would be futile. *See Vasquez-Rodriguez v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021) ("where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required.").

**CLAIM FOR RELIEF**

**Count I**

**Violation of Fifth Amendment Right to Due Process  
Procedural Due Process**

65. Mr. Ortiz restates and realleges all the prior paragraphs as if fully set forth herein.

66. Due process does not permit the government to re-detain Mr. Ortiz and strip him of 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.

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

68. Accordingly, Mr. Ortiz's re-detention violates the Due Process Clause of the Fifth Amendment.

**Count II**

**Violation of the Immigration and Nationality Act and implementing Regulations  
Failure to Provide an Individualized Determination of Flight Risk and Danger**

69. Mr. Ortiz restates and realleges all the prior paragraphs as if fully set forth herein.

70. Respondents have re-detained Mr. Ortiz without having made individualized determinations that such detention is necessary based on flight risk or danger to the community.

71. Under the INA and implementing regulations, immigration detention of an asylum seeker must be based on an individualized determination that the asylum seeker constitutes a flight risk or danger to the community. Mr. Ortiz's continued detention violates the INA and its implementing regulations.

**PRAYER FOR RELIEF**

WHEREFORE, Mr. Ortiz prays that this Court grant the following relief:

- (1) Assume Jurisdiction over this matter;
- (2) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Ortiz from custody immediately on the same conditions of release as the original OREC and permanently enjoining his re-detention absent written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that his is a flight risk or danger to the community and that no alternative to detention would mitigate those risks;
- (3) Declare that Mr. Ortiz's detention without an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;
- (4) Provide counsel with explicit leave to seek attorney's fees and costs under the Equal Access to Justice Act and on any other basis justified under law; and
- (5) Grant such other relief as may be just and reasonable.

Dated: February 9, 2026

1 Respectfully submitted this 8<sup>th</sup> of December.

2 /s/ Sam M Sueoka

3 Sam M Sueoka, WSBA No. 59949  
4 PO Box 18011  
5 Seattle, WA 98118  
6 ssueoka@proton.me

7 *Attorneys for Mr. Ortiz*

8 **VERIFICATION OF PETITIONER**

9 On behalf of Oswal Ortiz the party in custody, I verify the facts contained in the Petition for Writ  
10 of Habeas Corpus, upon information and belief, having reviewed the relevant records and  
11 pleadings. Mr. Ortiz has not verified the petition himself because he is currently in custody at  
12 NWPIC, Tacoma.

13 /s/ Sam M Sueoka

14 Sam M Sueoka, WSBA No. 59949  
15 PO Box 18011  
16 Seattle, WA 98118  
17 ssueoka@proton.me