

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Nora MENDOZA AGUILAR, and her minor
children E.B.M. and M.B.M.

Petitioner,

v.

Julio HERNANDEZ, Seattle Field Office
Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE); Kristi NOEM,
Secretary, United States Department of
Homeland Security; Pamela BONDI, U.S.
Attorney General; UNITED STATES
DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

Case No. _____

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

PET. FOR WRIT OF HABEAS CORPUS
Case No. _____

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Ste. 400
Seattle, WA 98104
(206) 957-8628

INTRODUCTION

1. Petitioner and her minor children seek protection against Respondents' unlawfully removing and detaining them based on Respondents' mistaken belief – already rejected by this Court – that Petitioners have a final removal order. Petitioner's husband, Moises Bonilla Mejia, prevailed in this Court on the same facts and law, with this Court ordering his immediate release on prior reporting conditions and concluding that his removal order is not final because his Board of Immigration Appeals (BIA) appeal of an Immigration Judge (IJ) denial of a motion to rescind an in absentia removal order is still pending. *Bonilla v. Hermosillo*, 2:25-cv-02196-TMC, Dkt. 19.

2. Respondents on February 27, 2026, violated this Court's order in Mr. Bonilla Mejia's case, taking him into custody with the intent to spirit him out of the Western District of Washington, fly him to Louisiana, and deport him to Honduras. But for the quick intervention of counsel and the AUSA who litigated the case, Mr. Bonilla and his family would be detained, in another state, and likely in another country, again in violation of this Court's order. More disturbingly, these ICE actions were *intentionally*, as counsel was personally at the ICE office and had a copy of the Court order, as did the family.

3. Even though this Court ordered that Mr. Bonilla was to be released under his prior reporting conditions, in his case reporting to ISAP on a monthly basis, ICE on February 27 instituted a new, oppressive and arbitrary reporting requirement that is likely to lead to another erroneous deprivation of their rights, namely that he and his wife report to ICE in person every Friday morning, leaving their children to wonder if one or both parents will not come home.

4. Because Respondents have a practice of not following clear legal mandates of District Court judges when an individual is not a named litigant in a case, Petitioners are forced

1 to bring this action to protect against Ms. Mendoza and her children from being unlawfully
2 detained and removed.

3 5. Petitioners was apprehended, along with Mr. Bonilla, shortly after entering the
4 United States and thereafter released for the purpose of continuing their removal proceedings. In
5 the subsequent months after release, Ms. Mendoza filed an application for asylum, including her
6 husband and minor children as derivatives.

7 6. Petitioners have fulfilled the conditions of release as set by Immigration and
8 Customs Enforcement (ICE), complying with reporting requirements, applying for asylum,
9 attending removal proceedings, and when once late for a hearing, followed the required
10 administrative steps for review, including timely filing a motion to reopen and rescind
11 proceedings and appealing to the BIA. Petitioners' case remains pending before the BIA.

12 7. Petitioners arrived *minutes* late for their individual, merits hearing on their fear-
13 based claims, because of: (1) a sick child and childcare difficulties; and (2) severe traffic and
14 travel difficulties due to an international sporting event, and (3) building entry difficulties, due in
15 part to protests and security at the federal building housing the Immigration Court. Nonetheless,
16 the Immigration Judge (IJ), ordered them removed without a hearing on their fear-based claims.
17 He denied a motion to rescind and reopen, and Petitioner's appeal of that denial is currently
18 pending before the BIA.

19 8. Despite Mr. Bonilla's compliance while released, including court attendance in
20 removal proceedings, he was abruptly and unlawfully re-detained by the Department of
21 Homeland Security (DHS) on November 3, 2025. Respondents communicated that they intended
22 to remove Petitioner imminently, even though his case was pending before the Board and he had
23 not had a full and fair hearing on his asylum claim.

1 9. Mr. Bonilla filed a petition for a writ of habeas corpus in this Court. He alleged
2 that the INA and due process prohibit removal prior to the issuance of a final removal order and
3 the opportunity for a full and fair hearing on an asylum application. He argued that he does not
4 have a final removal order under Ninth Circuit case law, because his appeal of the IJ's denial of
5 his motion to rescind and reopen is pending before the BIA. *See Cui v. Garland*, 13 F.4th 991,
6 996 (9th Cir. 2021) (an *in absentia* removal order does not become final until the 180 day period
7 to file a motion to reopen runs, or when the BIA makes a decision on appeal of such a motion to
8 reopen); 8 U.S.C. § 1231(a)(1)(B) ("The removal period begins on the latest of the following: ...
9 (i) The date the order of removal becomes administratively final."). The INA provides statutory
10 safeguards to ensure that persons in removal proceedings are provided a fair hearing, including
11 having a "reasonable opportunity to examine the evidence against the [noncitizen], to present
12 evidence on the [noncitizen]'s own behalf, and to cross-examine witnesses presented by the
13 Government..." 8 U.S.C. § 1229a(b)(4)(B).

14 10. This Court agreed, and in an order dated November 25, 2025, it ordered him
15 released and concluded that his removal order was not final because his case remained pending
16 before the Board. Respondents did not appeal the Court's decision and counsel's motion for
17 attorney's fees is pending.

18 11. ICE directed Petitioners and Mr. Bonilla to attend a check-in at the ICE Tukwila
19 Field Office on February 27, 2026. Counsel for Mr. Bonilla and Petitioners corresponded with
20 ICE, informing them of the Court order, and seeking to cancel the check-in. Instead, ICE
21 violated this Court's order by re-detaining Mr. Bonilla. ICE also detained Petitioners, informing
22 them that they would be flown to Louisiana that night and then deported to Honduras. Prior to re-
23 detaining the Petitioners, Respondents did not provide any written notice explaining the basis for

1 the revocation of their release. Likewise, Respondents did not assess whether Petitioners
2 presented a flight risk or danger to the community prior to the re-arrest. Nor did Respondents
3 provide a hearing before a neutral decisionmaker, where ICE was required to justify the basis for
4 re-detention or to explain why Mr. Bonilla is a flight risk or danger to the community.

5 12. As this Court has recently held in multiple cases, due process demands a hearing
6 prior to the government's decision to terminate a person's liberty. *See E.A. T.-B. v. Wamsley*, ---
7 F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025);
8 *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL
9 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-
10 01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*,
11 No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025);
12 Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-MLP (W.D.
13 Wash. Oct. 15, 2025), Dkt. 13. Many other courts have recently held the same.

14 13. By failing to provide such a hearing, Respondents have violated Petitioners'
15 constitutional right to due process.

16 14. Because Petitioners are at risk of being detained and removed on a legal basis this
17 Court has already rejected, and that Respondents did not defend in Mr. Bonilla's case, Petitioners
18 ask this Court to grant the instant petition for a writ of habeas corpus, stay Petitioners' removal,
19 enjoin Petitioner's re-detention and ICE's imposition of new, arbitrary and oppressive check-in
20 requirements.

21 JURISDICTION

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

16. 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).

17. 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

18. Venue is proper because Petitioners live in the Western District of Washington and are required to attend ICE appointments in Tukwila, Washington.

19. 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

20. 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.*

21. 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

1 action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120
 2 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th
 3 Cir. 1954) (habeas corpus is “a speedy remedy, entitled by statute to special, preferential
 4 consideration to insure expeditious hearing and determination”).

5 PARTIES

6 22. Petitioner Nora Mendoza Aguilar is an adult citizen of Honduras. She lives in
 7 Burien, Washington.

8 23. Petitioner E.B.M. is a minor child of Ms. Mendoza and lives with her and her
 9 husband. E.M.B. is a citizen of Honduras.

10 24. Petitioner M.B.M is a minor child of Ms. Mendoza and lives with her and her
 11 husband. M.B.M. is a citizen of Honduras.

12 25. Respondent Julio Hernandez is the Field Office Director for ICE’s Seattle Field
 13 Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens
 14 charged with being removable from the United States. The Seattle Field Office’s area of
 15 responsibility includes Alaska, Oregon, and Washington. Respondent Hernandez is a legal
 16 custodian of Petitioners and is sued in his official capacity.

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

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

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

3 **FACTUAL BACKGROUND**

4 29. Petitioners entered the United States with Mr. Bonilla on or about March 29,
5 2024, and they were apprehended by U.S. Customs and Border Patrol (CBP). The family was
6 released from ICE custody with a Notice to Appear in the Seattle Immigration Court on June 11,
7 2024.

8 30. Petitioners and Mr. Bonilla were enrolled in the Intensive Supervision
9 Appearance Program (“ISAP”). Ms. Mendoza was required to check-in with ISAP bi-weekly,
10 with ISAP coming to her house or her going to their offices. To their knowledge, Petitioners
11 have complied with all ISAP appointments, both by telephone and in person. Petitioners were not
12 required to check-in at ICE in Tukwila as part of their supervision.

13 31. Petitioners submitted I-589 applications for asylum and related relief on October
14 3, 2024. Petitioners

15 32. Petitioners appeared for all required initial hearings before the Immigration Judge.

16 33. On June 16, 2025, Petitioners were scheduled for their individual, merits hearing
17 on their applications for asylum, withholding of removal, and relief under the Convention
18 Against Torture, at the Seattle Immigration Court. However, due to a number of exceptional
19 circumstances, including the illness of one of their children the night before, unexpected lack of
20 childcare, heavy traffic due to the influx of tourists for the FIFA Club World Cup held that week
21 in Seattle, and the presence of community protesters outside the Seattle Immigration Court, the
22 family arrived late to their scheduled hearing. The family asserts that they arrived 12 minutes late
23 to the courtroom – after delays in passing through security – to find the door to the Court closed.

1 When they sought out and talked to the Clerk, they were told they were “too late” and were
2 instructed to file a motion to reopen. The Immigration Judge asserts that he started their *in*
3 *absentia* hearing 16 minutes after the scheduled time and ordered the family removed.

4 34. On July 18, 2025, Petitioners timely filed a motion to reopen citing the
5 exceptional circumstances that caused their tardiness and arguing that their brief tardiness should
6 not be considered a failure to appear.

7 35. On July 29, 2025, the IJ denied the motion to reopen. Petitioners filed a timely
8 appeal, received by the Board of Immigration Appeals on August 20, 2025, which remains
9 pending as of the date of this petition.

10 36. On November 3, 2025, Mr. Bonilla presented himself at the ISAP office at 14220
11 Interurban Ave S, Tukwila, WA 98168 and was taken into ICE custody. Mr. Bonilla’s two minor
12 children, E.B.M. and M.B.M., ages 5 and 7, were with him at the time of his arrest.

13 37. On November 4, 2025, Mr. Bonilla’s immigration counsel learned from ICE that
14 Mr. Bonilla was detained at the NWIPC. In response to counsel’s inquiry about whether Mr.
15 Bonilla’s removal was imminent, a deportation officer responded that there are three flights that
16 leave regularly every week from the NWIPC, and that any legal work needed to be done as soon
17 as possible.

18 38. Mr. Bonilla filed a petition for writ of habeas corpus in this Court on November 4,
19 2025, Case 2:25-cv-02916-TMC. On November 26, 2025, Judge Cartwright issued an order
20 concluding that Mr. Bonilla’s removal order was not final and: (1) directing ICE to release him
21 subject to the terms of his most recent order of supervision; and (2) enjoining ICE from re-
22 detaining him during the pendency of removal proceedings absent notice and a pre-deprivation
23 hearing. Case 2:25-cv-02916-TMC, Dkt. 19. Respondents did not appeal the Court’s decision.

39. ICE directed Petitioners and Mr. Bonilla to attend a check-in at the ICE Tukwila Field Office on February 27, 2026. NWIRP Counsel for Mr. Bonilla and Petitioners corresponded with ICE, informing them and providing a copy of the Court order, and seeking to cancel the check-in. Instead, ICE violated this Court's order by re-detaining Mr. Bonilla. ICE also detained Petitioners, informing them that they would be flown to Louisiana that night and then deported to Honduras. Prior to re-detaining the Petitioners, Respondents did not provide any written notice explaining the basis for the revocation of their release. Likewise, Respondents did not assess whether Petitioners presented a flight risk or danger to the community prior to the re-arrest. Nor did Respondents provide a hearing before a neutral decisionmaker, where ICE was required to justify the basis for re-detention or to explain why Mr. Bonilla is a flight risk or danger to the community. But for prompt intervention by counsel and the AUSA in Mr. Bonilla's case, Petitioners would be in detention and in Louisiana or even Honduras.

LEGAL FRAMEWORK

Due Process Principles related to re-detention

40. Due process requires that if DHS seeks to re-arrest a person like Petitioners—individuals who have lived in the United States without incident after DHS first released them, submitted applications for protection from removal, and otherwise complied with the terms of their releases—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.

41. “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

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

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

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

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

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

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

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

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

22 49. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court
23 reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full

1 protections of the due process clause.” 2025 WL 2637663, at *3. When examining the value of
2 additional safeguards, the Court also noted that despite the government’s allegations of ISAP
3 violations, “the fact ‘that the Government may believe it has a valid reason to detain Petitioner
4 does not eliminate its obligation to effectuate the detention in a manner that comports with due
5 process.’” *Id.* at *4 (quoting *E.A. T.-B.*, 2025 WL 2402130, at *4). Finally, the Court reasoned
6 that any government interest in re-detention without a hearing was “minimal.” *Id.* Accordingly,
7 there too, the Court ordered the petitioner’s immediate release. *Id.* at *5.

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

12 51. This Court’s decisions in *E.A. T.-B.*, *Ramirez Tesara*, *Kumar*, and *Ledesma*
13 *Gonzalez* are consistent with many other district court decisions addressing similar situations.
14 *See, e.g., Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18,
15 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v.*
16 *Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24,
17 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal.
18 Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068
19 (E.D. Cal. Aug. 21, 2025) (similar).

20 52. Respondents as a practice have not applied the Court’s determinations of law in
21 one case to non-named parties in other, related immigration cases. The most significant recent
22 example of this is perhaps the *Rodriguez Vazquez* bond denial class action. *See Rodriguez*
23 *Vazquez v. Hermosillo*, No. 3:25-CV-05240-TMC, 2026 WL 102461 *1 (W.D. Wash. Jan. 14,

1 2026) (“ignoring decades of precedent, Defendants have chosen not to comply with the Court’s
2 ruling.”). Even though this Court made a legal determination as to the right to a bond hearing for
3 class members in *Rodriguez Vazquez*, Respondents have forced class members to file individual
4 habeas actions to obtain relief. *See, e.g., Ortiz Martinez v. Wamsley*, No. 2:25-cv-1822 (W.D.
5 Wash.) (group habeas petition). This is similar to the re-detention cases cited above, where
6 judges in this District have repeatedly addressed the same legal issue in light of Respondents’
7 refusal to change their practice. Accordingly, the final order in Mr. Bonilla’s case offers no
8 protection to Petitioners, as Respondents take the position that they may detain and deport
9 Petitioners even though this Court has ruled that Mr. Bonilla may not be detained and deported.

10 53. Courts have also ordered that ICE may not impose additional custody
11 requirements after an order of release. *See Batz Barreno v. Baltasar*, No. 25-CV-03017-GPG-
12 TPO, 2026 WL 120253, at *3 (D. Colo. Jan. 15, 2026) (ordering “removal of the ankle monitor
13 and release from any conditions not specifically and explicitly imposed in writing by the IJ);
14 *Garcia Lanza v. Noem*, No. 26-0029 (GRB), 2026 WL 585130, at *11 (E.D.N.Y. Mar. 3, 2026)
15 (“additional terms and conditions of release imposed by ICE were unauthorized and shall not be
16 binding upon petitioner”).

CLAIM FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act (“INA”)

1. Petitioners restate and reallege all the prior paragraphs as if fully set forth herein.

2. By attempting to remove Petitioners before their removal order is final, with no hearing on their asylum claim, Respondents deny Petitioners their right to apply for asylum and right to a full and fair hearing.

3. The INA provides individuals the right to be present at their own removal proceedings. *See* 8 U.S.C. § 1229a(b)(2); *see also* 8 U.S.C. § 1229a(b)(2)(B) (consent required for merit hearings to be conducted by telephone conference and after advising the individual “of the right to proceed in person”). Moreover, the INA provides statutory safeguards to ensure that persons in removal proceedings are provided a fair hearing. This includes the right to have a “reasonable opportunity to examine the evidence against the [noncitizen], to present evidence on the [noncitizen]’s own behalf, and to cross-examine witnesses presented by the Government...” 8 U.S.C. § 1229a(b)(4)(B).

4. Respondents seek to remove Petitioners even though they do not have a final removal order and the removal period has not started, contrary to statute and Ninth Circuit case law. *See* 8 U.S.C. § 1231(a)(1)(B) (“The removal period begins on the latest of the following: ... (i) The date the order of removal becomes administratively final.”); *Cui v. Garland*, 13 F.4th 991, 996 (9th Cir. 2021) (an in absentia removal order does not become final until the 180 day period to file a motion to reopen runs, or when the BIA makes a decision on appeal of such a motion to reopen). Petitioners’ appeal is still pending before the BIA, and therefore pursuant to *Cui* they do not have a final removal order.

COUNT TWO

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

5. Petitioners restate and reallege all the prior paragraphs as if fully set forth herein.

6. Due process does not permit removal of Petitioners prior to a final order of removal or a hearing on their applications for asylum, withholding, and relief under the Convention Against Torture. An individual “who faces deportation is entitled to a full and fair hearing of her claims and a reasonable opportunity to present evidence on her behalf.” *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (emphasis added). Thus, the right to be present at one’s own removal proceeding is fundamental to due process.

7. First, if removed, Petitioners are returned to the country from which they seek asylum, effectively denying them a hearing on their claim for asylum, withholding of removal, or relief under the Convention Against Torture, contrary to the right to due process.

8. Second, Petitioners must be physically present in the U.S. in order to pursue an asylum claim. By definition, an asylum-seeker or refugee must be outside their country of origin. *See* 8 U.S.C. § 1101(a)(42) (a refugee is “outside any country of such person’s nationality”). Thus, if removed, Petitioners are denied their due process right to a full and fair hearing on their asylum claim.

9. Third, even if it were lawful to pursue an asylum claim from overseas, Petitioners could not be physically present for their hearings and are substantially hindered in their ability to testify, present witnesses and evidence, consult with attorneys, and cross-examine the government’s witnesses and evidence. Each of these rights are recognized due process rights in removal proceedings. *See Saidane v. INS*, 129 F.3d 1063, 1065 (9th Cir. 1997) (“[T]he government must make a reasonable effort in [immigration] proceedings to afford the

1 [noncitizen] a reasonable opportunity to confront the witnesses against him or her.”); *Tawadrus*
2 v. *Ashcroft*, 364 F.3d 1099, 1103 (9th Cir. 2004) (“Although there is no Sixth Amendment right
3 to counsel in an immigration hearing, Congress has recognized it among the rights stemming
4 from the Fifth Amendment guarantee of due process that adhere to individuals that are the
5 subject of removal proceedings.”).

6 10. Due process does not permit the government to re-detain Petitioners and strip
7 them of their liberty without written notice and a pre-deprivation hearing before a neutral
8 decisionmaker to determine whether re-detention is warranted based on danger or flight risk. *See*
9 *Morrissey*, 408 U.S. at 487–88. Such written notice and a hearing must occur *prior* to any re-
10 detention.

11 11. Respondents revoked Petitioners’ release and deprived them of liberty without
12 providing written notice and a meaningful opportunity to be heard by a neutral decisionmaker
13 prior to their re-detention.

14 12. Respondents arbitrarily imposed new, oppressive conditions of release that bear
15 no relationship to flight risk or danger to the community. These new conditions – that both
16 parents of the minor Petitioners must personally check-in with ICE every Friday morning –
17 creates an ever greater risk of an unlawful removal or detention.

18 13. Accordingly, Petitioners’ potential detention, removal, and arbitrary new
19 conditions of release violate the Due Process Clause of the Fifth Amendment.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Petitioners respectfully request that this Court:

22 (1) Assume jurisdiction over this matter;

- 1 (2) Issue a Temporary Restraining Order, and further injunctive relief, enjoining
2 Petitioners' removal pending the adjudication of this petition;
- 3 (3) Issue a Temporary Restraining Order, and further injunctive relief, enjoining
4 Petitioners' detention without notice and a pre-deprivation hearing before an IJ
5 pending the adjudication of this petition;
- 6 (4) Issue a Temporary Restraining Order, and further injunctive relief, enjoining
7 Respondents' imposition of arbitrary new conditions of release, specifically weekly
8 Friday-morning check-ins at ICE Tukwila.
- 9 (5) Issue an Order to Show Cause ordering Respondents to show cause within three days
10 as to why this Petition should not be granted as required by 28 U.S.C. § 2243, and
11 ordering that they not transfer Petitioner out of this district during the pendency of the
12 court's adjudication of this petition;
- 13 (6) Issue a Writ of Habeas Corpus ordering Respondents enjoining re-detention during
14 the pendency of removal proceeding absent written notice and a hearing prior to re-
15 detention where Respondents must prove by clear and convincing evidence that
16 Petitioner is a flight risk or danger to the community and that no alternatives to
17 detention would mitigate those risks;
- 18 (7) Declare that Petitioners may not be removed prior to a final order of removal;
- 19 (8) Identify a responsible ICE supervisory officer and ensure that officer has certified that
20 ICE will comply with any District Court orders;
- 21 (9) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
22 on any other basis justified under law; and
- 23 (10) Grant any further relief this Court deems just and proper.

1 Dated: March 5, 2026.

2
3 s/ Christopher Strawn

4 Christopher Strawn
WSBA No. 32243

5 NORTHWEST IMMIGRANT RIGHTS PROJECT
6 615 Second Ave., Suite 400
Seattle, WA 98104
(206) 957-8611

7 *Counsel for Petitioner*

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10 **VERIFICATION**

11 I am submitting this verification on behalf of the Petitioners because I am the Petitioners' attorney.
12 I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

13 s/ Christopher Strawn

14 Christopher Strawn
WSBA No. 32243

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