

DETAINED

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

Melvin Óseas Najeras Najeras,

Petitioner,

v.

Julio Hernandez, Seattle Field Office
Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE); Bruce SCOTT,
Warden, Northwest ICE Processing Center;
Mark Wayne Mullin, Secretary, United States
Department of Homeland Security; Todd
Blanche, United States Attorney General;
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY;

Respondents

Case No.: 2:26-cv-1166

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

Agency File Number:



INTRODUCTION

This case challenges the unlawful re-detention of Mr. Melvin Najeras Najeras, who entered the United States on May 8, 2022, to seek asylum. Upon entry, Mr. Najeras Najeras was

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1 detained by Border Patrol and several days later he was released on his own recognizance for the
2 purpose of continuing his removal proceedings. In the years since his release, Mr. Najeras
3 Najeras has filed for asylum, attended his scheduled court hearings, enrolled in school, made
4 friends, and otherwise relied on his freedom.

5 Three years and four months after his release on September 19, 2025, Mr. Najeras
6 Najeras was re-detained by ICE without notice or an opportunity to be heard. Mr. Najeras
7 Najeras was driving to work when he was pulled over by police. He pulled over and ICE agents
8 demanded that he provide them with identification. Mr. Najeras Najeras cooperated and was
9 placed under arrest by ICE. Mr. Najeras Najeras was never told why he was being re-detained.
10 Mr. Najeras Najeras was never provided notice or an opportunity to be heard before a neutral
11 decision make before he was re-detained.

12 Accordingly, this Court should grant the instant petition for a writ of habeas corpus and
13 order his immediate release. *See E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D.
14 Wash. 2025) (ordering immediate release because “a post-deprivation hearing cannot service as
15 an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous
16 deprivation of liberty”); *see also Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130 (W.D.
17 Wash. 2025)(similar); *Manuel v. Hermosillo*, C25-2353-TL-MLP, 2025 WL 3697277 (W.D.
18 Wash. Dec. 19, 2025); *Palacios v. Hermosillo et. al.* 2:26-CV-491-JNW, 2026 WL 686138 at 5
19 (W.D. Wash. March 11, 2026).

20 **JURISDICTION**

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

3. 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.

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

VENUE

5. Venue is proper because Mr. Najeras Najeras 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. Najeras Najeras currently is in custody.

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

13. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States. He has responsibility over the Executive Office for Immigration Review, which decides removal cases and applications for relief from removal.

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

EVIDENCE RELIED UPON

- A. Declaration of Counsel Sam Sueoka
- B. Declaration of Melvin Óseas Najeras Najeras
- C. Exhibit A. Notice to Appear
- D. Exhibit B. I-213
- E. Exhibit C. ICE Detainee Locator
- F. Exhibit D. EOIR Case Status

FACTUAL BACKGROUND

15. Mr. Najeras Najeras is a 21-year-old citizen and national of Guatemala. *See* Declaration of Najeras Najeras ("Najeras Decl").

16. Mr. Najeras Najeras fled Guatemala in 2022. *Id.* ¶ 3.

17. Mr. Najeras Najeras entered the United States on May 8, 2022, to seek asylum, and was subsequently apprehended by Border Patrol. Ex. A and B.

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

19. Following his release on recognizance, Mr. Najeras Najeras relocated to Seattle, Washington. *See* Najeras Najeras Decl. ¶ 12.

20. Since his release from border patrol Mr. Najeras Najeras has relied on his freedom and began to build a life for himself. *Id.* ¶ 11-14.

21. Mr. Najeras Najeras applied for asylum, enrolled in school, secured stable housing with his uncle, attended all his court dates, and made friendships with the people around him. *Id.* ¶ 13.

22. Mr. Najeras Najeras recalls filing for asylum around sometime in December 2022. *Id.* ¶ 15.

23. On August 19, 2025 Mr. Najeras Najeras asylum case was denied but an appeal to the Board of Immigration Appeals was filed. *Id.* ¶ 17; *See Exhibit F.*

24. On September 19, 2025, Mr. Najeras Najeras was leaving his house to go to work and was pulled over by police. *Id.* ¶ 18.

25. Mr. Mr. Najeras Najeras thought that it was the police pulling him over but quickly found out that it was ICE. Around four masked ICE agents surrounded his car and one agent asked Mr. Najeras Najeras for his ID. *Id.* ¶ 19-20.

26. After Mr. Najeras Najeras provided his ID to ICE, they placed him under arrest and transported him to the Northwest ICE Processing Center. *Id.* ¶ 25.

27. ICE did not tell Mr. Najeras Najeras why I was being arrested. *Id.* ¶ 22.

28. ICE did not provide Mr. Najeras Najeras with notice that they were going to re-detain him. *Id.* ¶ 23. Mr. Najeras Najeras was also never provided a hearing to justify his re-detention. *Id.* ¶ 24.

MEMORANDUM OF LAW

A. Due Process Principles

1 29. Due process requires that if DHS seeks to re-arrest a person like Mr. Najeras
2 Najeras—who has lived in the United States for years after DHS first released him, and relied on
3 his release thus creating a liberty interest in his freedom—the government must afford a hearing
4 before a neutral decisionmaker to determine whether any re-detention is justified, and whether
5 the person is a flight risk or danger to the community.

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

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

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

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

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

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

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

37. In applying the three *Mathews* factors, the *E.A. T.B.* court held that the petitioner had "undoubtedly [been] deprive[d] . . . 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

1 previously released without a hearing is low: although it would have required the expenditure of
 2 finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations
 3 before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous
 4 deprivation of the liberty interest at issue.” *Id.* at *5. As a result, this Court ordered the
 5 petitioner’s immediate release. *Id.* at *6.

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

15 39. This Court’s decisions in *E.A. T.-B.*, *Ramirez Tesara*, and *Kumar* are consistent
 16 with many other district court decisions addressing similar situations. See, e.g., *Valdez v. Joyce*,
 17 No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate
 18 release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, --- F. Supp. 3d ---, No. 5:25-
 19 CV05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No.
 20 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v.*
 21 *Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

22 40. The same framework and principles apply here and compel Mr. Najeras Najeras’s
 23 immediate release. Even if Respondents argue that changed circumstances justify a custody

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

12 41. Here, Mr. Najeras Najeras gained a liberty interest in his continued freedom when
13 DHS released him on an OREC and through his conduct he relied on his release. Mr. Najeras
14 Najeras applied for asylum, enrolled in school, and began building a life for himself.

15 42. 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 43. 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. Najeras Najeras. A
4 detention for its own sake is not a legitimate governmental interest. *Pinchi v. Noem*, No. 5:25-cv-
5 056320PCP, 2025 WL 2084921, at 5 (N.D. Cal. July 24, 2025) ("Detention for its own sake, to
6 meet an administrative quota, or because the government has not yet established constitutionally
7 required pre-detention procedures is not a legitimate government interest."). The Mathews
8 factors favor the Petitioner.

9 *B. Injunctive Relief*

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

14 45. 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 46. Mr. Najeras Najeras is not requesting a blanket prohibition of re-detention under
19 all circumstances but instead specifically request that the Respondent's be enjoined from re-
20 detaining Mr. Najeras Najeras in a same or similar manner as they have in this underlying habeas
21 case. Here, Mr. Najeras Najeras was detained without any due process. He was not provided
22 notice or an opportunity to be heard. He was arrested while driving his car to work despite
23

1 having built a liberty interest for over two years by living in the United States and relying on his
2 release.

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

12 48. Starting in July of 2024 with *E.A. T.-B*, habeas corpus petitions have proliferated
13 within the Western District of Washington. According to public database 'Habeas Dockets'¹
14 there are approximately 650 pending habeas petitions in the district. It has become clear that in
15 this District, due process requires that individuals similar to Mr. Najeras Najeras receive notice
16 and an opportunity to be heard before he may be re-detained for alleged release violations. See,
17 e.g., *Llanes Tellez*, 2025 WL 3677937, at *9 ("If the government wishes to re-detain [Petitioner],
18 it must provide him with the pre-detention hearing before a neutral decisionmaker required by
19 due process.")

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23 ¹ <https://habeasdockets.org/dockets/court/wawd/> (last visited April 6 2026) (HabeasDockets.org
is a public database that uses public records to document the number of habeas petitions in each
state.)

1 49. Although it has become clear that re-detention cases similar to Mr. Najeras
2 Najeras violates due process, the Respondents continue to re-detain people like Mr. Najeras
3 Najeras and have no intention of stopping. *See e.g., Petrov v. Hermosillo*, C25-2647-KKE, 2026
4 WL 98761 (W.D. Wash. Jan. 14, 2026) (holding that procedural due process was violated when
5 Mr. Petrov was re-detained at his ICE check-in on December 11, 2025, because he did not
6 receive notice or an opportunity to be heard.).

7 50. Shockingly, a nationwide Reuters investigation calculated that federal courts have
8 ruled over 4,400 times since October 2025 that ICE is detaining people illegally. This
9 widespread pattern makes the danger that Mr. Najeras Najeras's rights may be violated again by
10 ICE at the very least cognizable.²

11 51. The petitioner requests that this Court take judicial notice pursuant to FRE 201 of
12 the number of re-detention cases where the judges in this district have granted habeas corpus
13 petitions finding that re-detention requires procedural safeguards pursuant to the Due Process
14 clause.

15 52. FRE 201 allows courts to take judicial notice of a fact that is not subject to
16 reasonable dispute. FRE 201. The amount of habeas corpus petitions dealing with a re-detention
17 claim is something that is generally known within this trial court's territorial jurisdiction and can
18 reliably be determined from the court's docket. The Respondent's conduct of continuing to re-
19 detain individuals similarly situated to Mr. Najeras Najeras, despite this District's rulings, is

21 ² *See Raymond, et al.*, Courts have ruled 4,400 times that ICE jailed people illegally. It hasn't
22 stopped, Reuters (Feb. 14, 2026, 2:07 AM, updated Feb. 17, 2026)
23 <https://www.reuters.com/legal/government/courts-have-ruled-4400-times-that-ice-jailed-people-illegally-it-hasnt-stopped-2026-02-14/>.

evidence of a pattern and practice that re-detention is a cognizable danger and not merely a possibility. The Respondents since the *E.A. T.-B* ruling and its progeny have put ICE on notice that its practice of re-detention violates due process. The mere fact that ICE has not changed its practices to comport with the Court's rulings is evidence of a cognizable danger that Mr. Najeras Najeras could be arbitrarily re-detained again without a permanent injunction.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

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

54. 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

55. Mr. Najeras Najeras restates and realleges all the prior paragraphs as if fully set forth herein.

56. Due process does not permit the government to re-detain Mr. Najeras Najeras 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.

57. Respondents revoked Mr. Najeras Najeras'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.

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

PRAYER FOR RELIEF

WHEREFORE, Mr. Najeras Najeras 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. Najeras Najeras from custody immediately on the same conditions of release 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. Najeras Najeras's detention without an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;

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- (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.

Respectfully submitted this 7th Day of April.

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VERIFICATION OF PETITIONER

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

/s/ Sam M Sueoka

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