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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **FRESNO DIVISION**

11
12 **KAROLAINE MONTEIRO DE SOUZA**

13 *Petitioner,*

14
15 **v.**

16 Timothy S. ROBBINS, Field Office Director of the
17 Los Angeles Field Office of U.S. Immigration and
18 Customs enforcement; Todd M. LYONS, Acting
19 Director of U.S. Immigration and Customs
20 Enforcement; U.S. DEPARTMENT OF
21 HOMELAND SECURITY, Kristi NOEM,
22 Secretary of the U.S. Department of Homeland
23 Security, Christopher CHESTNUT, Warden,
24 California City Corrections Center, and Pamela
25 BONDI, Attorney General of the United States

26 *Respondents,*

Case No. 25-1124

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

IMMIGRATION HABEAS CASE

INTRODUCTION

1. Petitioner Karolaine Monteiro De Souza ("Petitioner") is an asylum seeker who fled Brazil along with her spouse, Nathalay Wesley Fernandes Barros. After Petitioner arrived in the United States in October 12, 2024, federal agents detained her and took her to the Karnes County Immigration Process Center, in Karnes City, Texas, where they determined that she was not a flight risk or danger to the community, and released her on November 4, 2024 on her own recognizance with a Notice to Appear for removal proceedings with the Immigration Court. Since then, Petitioner has done everything the government asked her to do, including complying with all terms of her monitoring program, which includes sending pictures of herself to ICE on a weekly basis, appear in person at ISAP every three months, appear at the ICE Field Office once a year, and maintain ICE informed of her whereabouts. In addition, Petitioner has no criminal history anywhere in the world. Until the time of her detention by Respondents, Petitioner already had prepared and filed her asylum application with supporting documents. She also had her first Master Calendar Hearing scheduled with the San Francisco Immigration Court for July 15, 2027.

2. During her release by ICE on November 4, 2024, Petitioner received an Order of Release on Recognizance, directing her to appear at the ICE Field Office in San Francisco on December 11, 2024 and present herself to her Removal Officer. She did as instructed and on that visit, she was instructed to return to the ICE Field office in San Francisco on October 30, 2025 for the same purpose.

3. Between the time of the December 11, 2024 visit and October 30, 2025, Respondent had sent numerous selfie-pictures to ISAP, had presented herself in person at the ISAP office as scheduled, and she was aware about the need to update her address with ICE if she was to move to a new address. She was also fully aware of her scheduled visit on October 30, 2025 and also about her upcoming Master Calendar Hearing with the San Francisco Immigration Court on July 15, 2027. Until the time of her arrest by ICE, Petitioner was unaware of any acts or omissions by her which might constitute a violation of her monitoring program.

4. In the morning of October 30, 2025, Petitioner appeared as previously instructed at the ICE Field

Office located at 630 Sansome Street, San Francisco, California, but she was promptly arrested by ICE officers, who alleged she had not appeared at her master calendar hearing. Petitioner tried to explain that she had not missed any hearings in court, as her Master Calendar Hearing had been scheduled for July 15, 2027. But the ICE officers ignored Petitioner's statements and proceeded with detaining her. On the same day, Petitioner was transferred to the California City Detention Center, in California City, California.

5. Before re-detaining her, Respondent did not provide Petitioner with any written notice explaining the basis for the revocation of her release. Nor did they provide a hearing before a neutral decisionmaker where ICE was required to justify the basis for re-detention or explain why Petitioner is a flight risk or danger to the community.

6. A number of courts have held that due process demands such a hearing before the government's Decision to terminate a person's liberty. (See *E.A. T.-B. v. Wamsley*, --- F.Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).)

7. By failing to provide such a hearing, Respondents have violated Petitioner's constitutional right to due process. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and order her immediate release. (See *Id.* at 6 * (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty."))

JURISDICTION AND VENUE

8. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

8. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

REQUIREMENTS OF 28 U.S.C. § 2243

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

5 10. Habeas corpus is perhaps the most important writ known to the constitutional law... affording
6 as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” (*Fay v. Noia*,
7 372 U.S. 391, 400 (1963).) “The application for the writ usurps the attention and displaces the calendar
8 of the judge or justice who entertains it and receives prompt action from him within the four corners of
9 the application.” (*Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van*
10 *Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (Habeas corpus is “a speedy remedy,
11 entitled by statute to special, preferential consideration to insure expeditious hearing and
12 determination.”).

13 11. Petitioner is “in custody” for the purpose of 28 U.S.C. § 2241 because she is in Respondents’
14 custody at California City Corrections Center.

15 PARTIES

16 12. Petitioner is a 26-year-old asylum seeker from Brazil. She has a pending case with the Adelanto
17 Immigration Court¹, and has no criminal history. She is presently in civil immigration detention at the
18 California City Correctional Center, in California City, California.

19 13. Respondent Timothy S. Robbins is the Acting Field Office Director of the Los Angeles
20 ICE Field Office. In this capacity, he is responsible for the administration of immigration laws
21 and the execution of immigration enforcement and detention policy within ICE’s Los Angeles
22 Area of Responsibility, including the detention of Petitioner. Respondent Robbins maintains an
23 office and regularly conducts business in this district. Respondent Robbins is sued in his official
24 capacity.

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26
27 ¹ Following her detention and transfer to the California City Detention Center, her case was transferred to the Adelanto
28 Immigration Court. She has an individual hearing scheduled for February 9, 2026. Prior to that, she had a case with the San
Francisco Immigration Court.

1 14. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
2 Performing the Duties of the Director of ICE, he is responsible for the administration and
3 enforcement of the immigration laws of the United States; routinely transacts business in this
4 District; and is legally responsible for pursuing any effort to detain and remove the Petitioner.
5 Respondent Lyons is sued in his official capacity.

6 15. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
7 authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority
8 over and responsibility for the operation and enforcement of the immigration laws; routinely
9 transacts business in this District; and is legally responsible for pursuing any effort to detain and
10 remove the Petitioner. Respondent Noem is sued in her official capacity.

11 16. Respondent Christopher Chestnut is employed by the private corporation, CoreCivic, Inc., as the
12 Warden of the California City Corrections Center, where Petitioner is detained. He has immediate
13 physical custody of Petitioner. He is sued in his official capacity.

14 17. Respondent Department of Homeland Security (DHS) is the federal agency responsible for
15 implementing and enforcing the INA, including the detention and removal of noncitizens.

16 18. Respondent Pamela Bondi is the Attorney General of the United States and the most
17 senior official at the Department of Justice. In that capacity and through her agents, she is
18 responsible for overseeing the implementation and enforcement of the federal immigration laws.
19 The Attorney General delegates this responsibility to the Executive Office for Immigration
20 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her official
21 capacity.

22 EXHAUSTION

23 18. There is no requirement to exhaust because no other forum exists in which
24 Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to
25 challenging the constitutionality of an arrest or detention, or challenging a policy under the
26 Administrative Procedure Act. Prudential exhaustion is not required here because it would be
27 futile, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial
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1 consideration of [their] claim.” (*McCarthy v. Madigan*, 503 U.S. 140, 147 (1992).) Any further
2 exhaustion requirements would be unreasonable.

3 **FACTUAL BACKGROUND**

4 19. Petitioner is a 29-year-old citizen and national of Brazil.

5 20. Petitioner fled Brazil to seek asylum and related protections from persecution and torture in the
6 United States. She fled Brazil along with her spouse, Nathaley Wesley Fernandes Barros.

7 21. On or about October 12, 2024, Petitioner arrived in the United States to seek asylum. That same
8 day, Respondents arrested and detained Petitioner. On that same day, she was provided with a Notice
9 and Order of Expedited Removal, stating that pursuant to Section 235(b)(1) of the Immigration and
10 Naturalization Act, Petitioner was inadmissible and therefore subject to removal.

11 22. In or around November 4, 2024, Respondent DHS paroled Petitioner from its custody into the
12 United States under 8 U.S.C. § 1182(d)(5). This occurred after her spouse underwent a credible fear
13 interview. As a condition of Petitioner’s release, she was required to enroll in the Intensive Supervision
14 Appearance Program (ISAP), a program operated by a private contractor that ICE uses to monitor
15 released noncitizens. DHS officials provided Petitioner with an Order of Release on Recognizance
16 (Form I-220A), which stated that she was being released pursuant to sections 236 of the Immigration
17 and Naturalization Act. In addition, she was served with a Notice to Appear, which indicated that the
18 Notice and Order of Expedited Removal which was served on her on October 12, 2024 pursuant to
19 Section 235(b)(1) was vacated pursuant to 8 C.F.R. § 208.30.

20 23. On November 5, 2024, Respondents commenced removal proceedings under 8 U.S.C. § 1229a.

21 24. Following commencement of removal proceedings, Petitioner actively worked on her case,
22 Petitioner filed a request for change of venue with the San Antonio Immigration Court, which granted it
23 on March 10, 2025. Once the venue was changed to the San Francisco Immigration Court, she filed an
24 asylum application on April 17, 2025, and the San Francisco Immigration Court scheduled a Master
25 Calendar Hearing for July 15, 2027.

26 25. To the best of her knowledge, Petitioner complied with all ISAP requirements during the 12
27 months following her release. These requirements included phone and video check-ins through the ISAP
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1 mobile phone application (ISAP app). Petitioner submitted a photo via the app every time she was
2 instructed via text to do so. In regards to her in-person visits to ISAP. She was instructed to present
3 herself at ISAP every three months. As for in-person visits to the ICE field office, when she was
4 released from detention on November 4, 2024, Petitioner was instructed to present herself the ICE Field
5 Office in San Francisco on December 11, 2024. She appeared as instructed on that day, and she was
6 instructed to present herself in person again on October 30, 2025. Petitioner checked the ISAP app
7 every day to ensure that she complied with all requirements. Petitioner also knew she had to notify
8 ISAP in case she changed addresses. Since November 2024, she had always resided at [REDACTED]
9 [REDACTED] California.

10 26. In the morning of October 30, 2025, Petitioner appeared for her annual in-person check in at the
11 San Francisco ICE Field Office and presented herself to her monitoring officer. At the time of her visit,
12 Petitioner was not aware about any acts or omissions by her which might have been considered to be a
13 violation of her monitoring program. Nevertheless, she was promptly detained by ICE officers, who
14 alleged she had missed an immigration court hearing. Petitioner tried to explain that she had not missed
15 any hearings in court, as her Master Calendar Hearing with the San Francisco Immigration Court was
16 scheduled for July 15, 2027. But the ICE officers ignored her statements and proceeded with detaining
17 her.

18 29. Prior to Petitioner's re-detention, she did not receive written notice of the reason for her re-
19 detention. The only information she was provided with was that she had missed her master calendar
20 hearing, which Petitioner vehemently denied.

21 30. Prior to Petitioner's re-detention, ICE did not provide notice of the revocation of her parole, as
22 required by 8 C.F.R. § 212.5(e)(2).

23 31. Prior to Petitioner's re-detention, she never received a hearing before a neutral decisionmaker to
24 determine if her re-detention is justified.

25 LEGAL BACKGROUND

26 32. Under current caselaw that governs the immigration court system, the mandatory detention
27 scheme under 8 U.S.C. § 1225(b)(1) applies to individuals who are placed in expedited removal
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1 proceedings, pass a CFI, and are subsequently placed in removal proceedings. (See *Matter of M-S-*, 27 I.
2 & N. Dec. 509 (A.G. 2019).) Such individuals are subject to detention without any bond hearing until
3 the conclusion of their proceedings unless DHS releases them on parole. (See *Id.* at 510, 518–19.)

4 33. However, once released, due process requires that a person like Petitioner receives a hearing
5 before a neutral decisionmaker to determine whether any re-detention is justified, and whether the
6 person is a flight risk or danger to the community.

7 34. “Freedom from imprisonment—from government custody, detention, or other forms of physical
8 restraint—lies at the heart of the liberty protected by the Due Process Clause.” (*Zadvydas v. Davis*, 533
9 U.S. 678, 690 (2001).) As a number of District Courts recently recognized, this is the “the most
10 elemental of liberty interests.” *E.A. T.-B. v. Wamsley*, ___ F.Supp.3d ___, No. C25-1192-KKE, 2025 WL
11 2402130, at *3 (W.D. Was. Aug. 19, 2025).)

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

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

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

23 38. Due process thus guarantees notice and an individualized hearing before a neutral
24 decisionmaker to assess danger or flight risk before the revocation of an individual’s release. (*Goldberg*
25 *v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the opportunity
26 to be heard . . . at a meaningful time in a meaningful manner.” (citation modified)); *see also, e.g.,*
27 *Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to determine whether there is probable cause

1 or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole
2 conditions” and that such determination be made “by someone not directly involved in the case”
3 (citation modified)).

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

7 40. For example, in *E.A. T.-B.*, the Federal Court for the Western District of Washington applied the
8 *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework to hold that even in a case where the government
9 argued mandatory detention applied, a person’s re-detention required a hearing.

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

21 42. The decision in *E.A. T.-B.* is consistent with many other district court decisions addressing
22 similar situations. (See, e.g. *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y.
23 June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, ---
24 F. Supp. 3d ---, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar);
25 *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025)
26 (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21,
27 2025) (similar).

43. The same framework and principles apply here and compel Petitioner's immediate release.

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

44. Petitioner restates and realleges all paragraphs as if fully set forth here.

45. Due process does not permit the government to strip Petitioner of her liberty without written notice and a 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.

46. Respondents revoked Petitioner's release and deprived her of liberty without affording her any written notice or meaningful opportunity to be heard by a neutral decisionmaker prior to her re-detention.

47. Accordingly, Petitioner's re-detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- (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;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately and permanently enjoining her re-detention absent written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that he is a flight risk or danger to the community and that no alternatives to detention would mitigate those risks;
- (4) Declare that Petitioner's detention without an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;
- (5) Award Petitioner's attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

1 (6) Grant any further relief this Court deems just and proper.

2 Respectfully submitted,

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4 DATE: 11/19/2025

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