

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

Harrinson Jose OSUNA BENITEZ,

Mr. Osuna Benitez,

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, U.S. Attorney General;

Respondents.

Case No. 2:25-cv-2535

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

INTRODUCTION

1
2 1. This case challenges the unlawful re-detention of Harrinson Jose Osuna Benitez
3 (“Mr. Osuna”), who entered the United States on September 27, 2024 as an applicant for
4 admission to seek asylum. Mr. Osuna presented himself at a port of entry, and the Department of
5 Homeland Security (“DHS”) granted Mr. Osuna parole into the country.

6 2. In the year-plus since his release, Mr. Osuna has complied with requirements
7 imposed by Immigration and Customs Enforcement (ICE) as part of his release. Mr. Osuna
8 attended two court hearings with the Portland Immigration Court, timely filed his Form I-589
9 Application for Asylum, Withholding of Removal, and Convention Against Torture protection,
10 and presented himself for two in-person appointments with Portland ICE—Enforcement and
11 Removal Operations.

12 3. Nevertheless, on November 17, 2025, ICE re-detained Mr. Osuna during a check-
13 in appointment. Mr. Osuna was transferred to the Northwest ICE Processing Center (NWIPC) in
14 Tacoma, Washington, where he remains detained today.

15 4. Before re-detaining him, Respondents did not provide Mr. Osuna with any written
16 notice explaining the basis for the revocation of his release, nor did they provide a hearing before
17 a neutral decisionmaker where ICE was required to justify the basis for re-detention or explain
18 why Mr. Osuna is a flight risk or danger to the community.

19 5. As this Court has recently held in multiple cases, due process demands a hearing
20 prior to the government’s decision to terminate a person’s liberty. *See E.A. T.-B. v. Wamsley*, ---
21 F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025);
22 *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL
23 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-

1 CV01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); *Kumar v.*
2 *Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17,
3 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-MLP
4 (W.D. Wash. Oct. 15, 2025), Dkt. 13. Many other courts have recently held the same.

5 6. By failing to provide such a hearing, Respondents have violated Mr. Osuna’s
6 constitutional right to due process.

7 7. Accordingly, this Court should grant the instant petition for a writ of habeas
8 corpus and order his immediate release. *See E.A. T.-B.* 2025 WL 2402130, at *6 (ordering
9 immediate release because “a post-deprivation hearing cannot serve as an adequate procedural
10 safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty”);
11 *Ramirez Tesara*, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar); *Ledesma*
12 *Gonzalez*, 2025 WL 2841574, at *9 (similar).

13 JURISDICTION

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

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

19 10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
20 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C.
21 § 1651.

22 VENUE

1 11. Venue is proper because Mr. Osuna is in Respondents' custody at the NWIPC in
2 Tacoma, Washington. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
3 484, 493–500 (1973), venue lies in the judicial district in which Mr. Osuna currently is in
4 custody.

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

9 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

14 14. Habeas corpus is “perhaps the most important writ known to the constitutional
15 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
16 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
17 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
18 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
19 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d
20 735, 737–38 (9th Cir. 1954) (habeas corpus is “a speedy remedy, entitled by statute to special,
21 preferential consideration to insure expeditious hearing and determination.”).

22 15. Mr. Osuna is “in custody” for the purpose of 28 U.S.C. § 2241 because
23 Respondents have arrested and continue to detain him.

PARTIES

16. Harrison Jose Osuna Benitez is an adult citizen of Venezuela. He is detained at NWIPC.

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

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

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

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

FACTUAL BACKGROUND

21. Mr. Osuna is a 25-year-old citizen and national of Venezuela. Osuna Decl. ¶ 1. Mr. Osuna fled Venezuela to the United States in 2024 to seek asylum and related protections from persecution and torture. *Id.* He left Venezuela with his partner, Winyffer Angelica Tejera Linares. *Id.*

1 22. Like many people around the world, Mr. Osuna has tattoos. Osuna Decl. ¶ 2. Mr.
2 Osuna has worked as a tattoo artist since about 2023. *Id.* In 2024, Mr. Osuna received
3 professional training for this trade from world-renowned tattoo artist Yomico Moreno.
4 Valladares Decl., Ex. F.

5 23. Mr. Osuna registered to enter the United State through DHS's app called "CBP
6 One." Osuna Decl. ¶ 3. On or about September 27, 2024, Mr. Osuna presented himself at the
7 Hidalgo, Texas port of entry. *Id.* Respondents detained Mr. Osuna for about 6 hours upon his
8 arrival to the United States. *Id.* After questioning Mr. Osuna about his tattoos, taking his
9 fingerprints, and collecting other biometrics information, DHS released him on parole, issuing
10 him a Form I-94, valid until September 24, 2026. *Id.*; Valladares Decl.; Ex. A.

11 24. On September 27, 2024, Respondent DHS paroled Mr. Osuna from its custody
12 into the United States under 8 U.S.C. § 1182(d)(5). Valladares Decl.; Exs. A, B.

13 25. After Winyffer experienced a complicated pregnancy and childbirth, on
14 December 29, 2024, Mr. Osuna and Winyffer welcomed a baby boy into their family. Osuna
15 Decl. ¶ 8.; Valladares Decl.; Ex. G.

16 26. Mr. Osuna attended an in-person immigration court hearing at Portland
17 Immigration Court on February 27, 2025. Osuna Decl. ¶ 6.; Valladares Decl.; Ex. B.

18 27. In June 2025, Mr. Osuna timely filed his application for asylum, withholding of
19 removal, and Convention Against Torture Protection with the Portland Immigration Court.
20 Osuna Decl. ¶ 6. Mr. Osuna attended a second hearing before Portland Immigration Court on
21 August 18, 2025. *Id.*; Valladares Decl.; Ex. E. The Portland Immigration Court scheduled him for
22 a subsequent hearing in his case on January 28, 2027. *Id.*
23

1 28. In September 2025, Mr. Osuna received a letter by mail to report to ICE-ERO in
2 Portland, Oregon on October 15, 2025. Osuna Decl. ¶ 4; Valladares Decl; Ex. C. Mr. Osuna
3 presented himself in person at this appointment, in which officers informed him to attend another
4 appointment at the ICE-ERO Portland office on November 17, 2025. Osuna Decl. ¶ 4.

5 29. At the ICE-ERO appointment on November 17, 2025, ICE officers detained Mr.
6 Osuna and transported him to the NWIPC in Tacoma, Washington. Osuna Decl. ¶ 5. During the
7 detainment, the officers implied that Mr. Osuna was being detained because of his tattoos. *Id.*
8 The officers did not provide Mr. Osuna with the opportunity to explain his tattoos or otherwise
9 present arguments or evidence against his re-detention. *Id.*

10 30. To the best of his knowledge, Mr. Osuna complied with all DHS and EOIR
11 requirements for his case, including presenting himself at ICE-ERO appointments when
12 requested and attending immigration court hearings.

13 31. To the best of his memory, the only new tattoo that Mr. Osuna has obtained since
14 his initial detainment and parole into the United States is that of his son's name above his
15 eyebrow. Osuna Decl. ¶ 7.

16 32. Before being placed back into DHS custody, Mr. Osuna served as at the primary
17 breadwinner in the family, working to provide for his partner and U.S. citizen child. Osuna Decl.
18 ¶ 8.

19 33. Prior to Mr. Osuna's re-detention, he did not receive written notice of the reason
20 for his re-detention.

21 34. Prior to Mr. Osuna's re-detention, ICE did not provide notice of the revocation of
22 his parole, nor opportunity to re-apply for parole, as required by 8 C.F.R. § 212.5(e)(2).
23

1 35. Prior to Mr. Osuna's re-detention, Mr. Osuna was not afforded a hearing before a
2 neutral decisionmaker to determine if his re-detention is justified.

3 **LEGAL FRAMEWORK**

4 36. Under current caselaw that governs the immigration court system, the mandatory
5 detention scheme under 8 U.S.C. § 1225(b)(1) applies to individuals who apply for admission at
6 a port of entry. Such individuals are subject to detention without any bond hearing until the
7 conclusion of their proceedings unless DHS releases them on parole. *See* 8 CFR §
8 1003.19(h)(2)(i)(B); *Matter of Oseiwusu*, 22 I&N Dec. 19 (BIA 1998).

9 37. However, once released, due process requires that a person like Mr. Osuna—an
10 individual who has lived in the United States without incident after DHS first released him,
11 submitted applications for protection from removal, and otherwise complied with the terms of his
12 release—the government must afford a hearing before a neutral decisionmaker to determine
13 whether any re-detention is justified, and whether the person is a flight risk or danger to the
14 community.

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

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

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

5 41. To protect against arbitrary re-detention and to guarantee the right to liberty, due
6 process requires “adequate procedural protections” that ensure the government’s asserted
7 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
8 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation
9 marks omitted).

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

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

21 44. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S.
22 319(1976), framework to hold that even in a case where the government argued mandatory
23 detention applied, a person’s re-detention required a hearing. The Court did the same in *Ramirez*

1 *Tesara, Kumar, and Ledesma Gonzalez. See Ramirez Tesara, 2025 WL 2637663, at *2–3;*
2 *Kumar, 2025 WL 2677089, at *2–3; Ledesma Gonzalez, 2025 WL 2841574, at *7–8.*

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

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

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

5 48. This Court’s decisions in *E.A. T.-B.*, *Ramirez Tesara*, *Kumar*, and *Ledesma*
6 *Gonzalez* are consistent with many other district court decisions addressing similar situations.
7 *See, e.g., Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18,
8 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v.*
9 *Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24,
10 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal.
11 Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068
12 (E.D. Cal. Aug. 21, 2025) (similar).

13 49. The same framework and principles apply here and compel Mr. Osuna’s
14 immediate release.

15 **CLAIM FOR RELIEF**
16 **Violation of Fifth Amendment Right to Due Process**
 Procedural Due Process

17 50. Mr. Osuna restates and realleges all paragraphs as if fully set forth here.

18 51. Due process does not permit the government to re-detain and strip Mr. Osuna of
19 his liberty without written notice and a hearing before a neutral decisionmaker to determine
20 whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at 487–
21 88. Such written notice and a hearing must occur *prior* to any re-detention.

52. Respondents revoked Mr. Osuna's release and deprived him of liberty without affording him any written notice or meaningful opportunity to be heard by a neutral decisionmaker prior to his re-detention.

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

PRAYER FOR RELIEF

WHEREFORE, Mr. Osuna 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 and ordering that they not transfer Petitioner out of this district during the pendency of the court's adjudication of this petition
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Osuna from custody immediately and permanently enjoining his re-detention during the pendency of his removal proceedings 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 Mr. Osuna's detention while removal proceedings are ongoing without first providing an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;
- (5) Award Mr. Osuna 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 Dated: December 11, 2025

3
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