DETAINED

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THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

SUBHAM SUBHAM
Petitioners,

v.

Kristi NOEM, Secretary of U.S. Department of Homeland Security;
Pamela BONDI, United States Attorney General;
Todd LYONS, Acting Director, U.S. Immigration and Customs Enforcements;
Laura HERMOSILLO, Acting Seattle Field Office Director, Immigration and Customs Enforcement;
Bruce SCOTT, Warden, Northwest ICE Processing Center;
Respondents.

Case No.

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

INTRODUCTION

1. This Petition challenges the unlawful re-detention of Petitioner Subham Subham, an adult citizen of India who entered United States on March 28, 2023. Petitioner was initially apprehended by the Department of Homeland Security (DHS). He expressed a fear of

return to India and was released by the DHS on an order of release on recognizance on March 31, 2023.

2. Petitioner timely filed an application for asylum and complied with all conditions of release set by Immigration and Customs Enforcement (ICE). Petitioner has no criminal history in the United States or any other country.

3. Despite Petitioner's compliance while released, including court attendance in removal proceedings, he was abruptly and unlawfully re-detained by the Department of Homeland Security (DHS) on December 08, 2025 at EB Saltese Weigh Station in Haugan, Montana on Interstate 90 while Petitioner was entering Montana from Idaho.

4. Prior to re-detaining Petitioner, Respondents did not provide any written notice explaining the basis for the revocation of his release. Likewise, Respondents did not assess whether Petitioner presented a flight risk or danger to the community prior to his rearrests. 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 Petitioner is a flight risk or danger to the community.

5. This Court has recently held in multiple cases that due process demands a hearing prior to 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); Ramirez Tesara v. Wamsley, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); Ledesma Gonzalez v. Bostock, No. 2:25-CV01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); Kumar v. Wamsley, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025). Many other courts have also held the same.

6. By failing to provide such a hearing, Respondents have violated Petitioner's constitutional right to due process.

7. Accordingly, this court should grant the instant petition for a writ of habeas corpus and order Petitioners' immediate release. See E.A. T.-B. 2025 WL 2402130, 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"); Ramirez Tesara, at *4 (similar); Kumar, 2025 WL 2677089, at *3-4 (similar).

PARTIES

8. Petitioner, Subham Subham (A # [redacted] is an adult citizen of India, currently detained at North West ICE Processing Center in Tacoma, Washington.

9. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. She is the cabinet-level secretary responsible for all immigration enforcement in the United States and has ultimate custodial authority over Petitioners.

10. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Immigration Judges who decide removal cases and applications for relief from removal do so as her designees.

11. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

12. Respondent Laura Hermosillo is sued in her official capacity as Acting Field Office Director for the Seattle office of Immigration and Customs Enforcement, an agency of the Department of Homeland Security. She is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioners, including detentions, enforcement, and removal operations. She is the immediate legal custodian of the petitioner for purposes of a federal habeas petition.

13. Respondent, Bruce Scott, is sued in his official capacity as the Warden of the Northwest ICE Processing Center, the privately-operated immigration detention center where the Petitioners are being detained. Mr. Scott has immediate physical custody of Petitioners.

JURISDICTION

14. This Court has jurisdiction over this matter under 18 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1651 (All Writs Act).

15. Further, this Court has jurisdiction under the Suspension Clause of Article I, § 9, cl. 2, of the U.S. Constitution. See INS v. St. Cyr, 533 U.S. 289 (2001).

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

VENUE

17. Venue in the Western District of Washington is appropriate under 28 U.S.C. § 1391(e)(1) because the Petitioner is currently detained in this judicial district.

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18. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because the Respondents live, work, and operate within this judicial district and because the actions which gave rise to this Petition took place in Tacoma, Washington, which falls within this judicial district.

FACTUAL BACKGROUND

19. Petitioner Subham Subham is a 22-year-old citizen and national of India.

20. Petitioner entered the United States on March 28, 2023.

21. He was detained by the DHS ICE and released on order of release on recognizance on March 31, 2023.

22. Petitioner complied with the conditions on his order of release from detention and attended every ICE check-in. However, on December 08, 2025, Petitioner was re-detained by ICE at EB Saltese Weigh Station in Haugan, Montana on Interstate 90 while Petitioner was entering Montana from Idaho.

23. Petitioner has no criminal record in the United States or any other country.

24. Prior to Petitioner's re-detention, he did not receive written notice of the reason for his re-detention.

25. Prior to Petitioner's re-detention, ICE did not assess whether he presented a flight risk or danger to the community, or was justified for some other reason.

26. Prior to Petitioner's re-detention, he never received a hearing before a neutral decisionmaker to determine if his re-detention is justified.

27. Petitioner has been detained for nearly two months.

MEMORANDUM OF LAW

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Due Process Clause

28. Due Process requires that if DHS seeks to re – arrest a person like Petitioner- who has lived in the United States without incident after DHS first released him from custody, has submitted application for asylum, and otherwise complied with the terms of his release – 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.

29. "Freedom from imprisonment from government custody, detention, or other forms of physical restraint lies at the core of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Courts consistently recognize this interest as "the most elemental of liberty interests." *E.A.T.-B. v. Wamsley*, 2025 WL 2402130, at *3 (citation modified) (W.D. Wash. Aug. 19, 2025); see also *Ramirez Tesara v. Wamsley*, 2025 WL 2637663, at *3 (W.D. Wash. Sept. 12, 2025). (stating that the petitioner had "an exceptionally strong interest in freedom from physical confinement").

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

31. Such liberty is protected by the Fifth Amendment because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the ability to be gainfully employed and live with family, "and its termination inflicts a 'grievous loss' on the [released individual] and often on others." Id.

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

33. 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)).

34. 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 or years.

35. In *E.A.T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing framework and held that re-detention without a hearing is unconstitutional, even where DHS claimed that mandatory detention initially applied. This Court reached the same conclusion in *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez*. See *Ramirez Tesara*, 2025 WL 2637663, at *2–3; *Kumar v. Wamsley*, 2025 WL 2677089, at *2–3 (W.D.

Wash. Sept. 17, 2025); *Ledesma Gonzalez v. Bostock*, 2025 WL 2841574, at *7–8 (W.D. Wash. Oct. 7, 2025).

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

37. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court reasoned that the petitioner had a "weighty" interest in his liberty and was entitled to the "full protections of the due process clause." 2025 WL 2637663, at *3. When examining the value of additional safeguards, the Court also noted that despite the government's allegations of ISAP violations, "the fact 'that the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.'" *Id.* at *4 (quoting *E.A. T.-B*, 2025 WL 2402130, at *4). Finally, the Court reasoned that any government interest in re-detention without a

hearing was "minimal." *Id.* Accordingly, there too, the Court ordered the petitioner's immediate release. *Id.* at *5.

38. The *Kumar* court reached the same decision, again holding that all three factors weighed in favor of affording the petitioner a bond hearing. 2025 WL 2677089, at *3–4.

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

40. The same framework and principles apply here and compel both Petitioners' immediate release.

41. This Petition has been verified by Petitioner. *See* Verification of Petitioner.

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process
Procedural Due Process

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

43. Due process does not permit the government to strip Petitioner of his 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.

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Such written notice and a hearing must occur *prior* to any re-detention.

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

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

IRREPARABLE INJURY

46. Petitioner has suffered irreparable injury as a result of detention. He has been in custody for nearly two months, despite being released on his own recognizance from ICE/DHS detention upon entry into the country. His physical liberty continues to be restrained, and no just cause for doing so can be specified. "It is well established that the deprivation of constitutional rights' unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

(1) Assume jurisdiction over this matter.

(2) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody and permanently enjoin 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 Petitioner is a flight risk

or a danger to the community and that no alternatives to detention would mitigate those risks;

(3) Enjoin Respondents from placing GPS ankle monitors on Petitioner upon his release, absent clear and convincing evidence that Petitioner is a flight risk or danger a danger to the community and that no other alternatives would mitigate those risks;

(4) Declare that Petitioner's re-detention while removal proceedings are ongoing without first proving an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;

(5) Issue an order providing for an award of attorney's fees and costs; and

(6) Grant such other relief as may be just and reasonable.

Respectfully submitted this 21st day of January 2026

/s/ Jashan Multani
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