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8 UNITED STATES DISTRICT COURT FOR THE
9 WESTERN DISTRICT OF WASHINGTON
10 SEATTLE DIVISION

11 HASAN OMER HUSEN,

12 Petitioner,

13 v.

14 KRISTI NOEM, Secretary for the Department
15 of Homeland Security; TODD LYONS, Acting
16 Director, Immigration and Customs
17 Enforcement; LAURA HERMOSILLO, Field
18 Office Director, Immigration and Customs
19 Enforcement Seattle Field Office; BRUCE
20 SCOTT, Warden, Northwest ICE Processing
21 Center,

22 Respondents.

Case No. 2:26-cv-00498

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

INTRODUCTION AND BACKGROUND

1. This case challenges the unlawful re-detention of Petitioner, Mr. Hasan Omer Husen. Petitioner is a thirty-five-year-old Ethiopian national, currently held in the Respondents' custody at Northwest ICE Processing Center in Tacoma, Washington.

2. Petitioner entered the United States without inspection on April 13, 2023. Soon after, he was served with a notice to appear in immigration court and released on his own recognizance. *See* Exh. "C," p. 6.

3. On June 2, 2023, through counsel, Petitioner filed an application for asylum and related relief in the Seattle Immigration Court. The application alleged persecution by the Ethiopian "[REDACTED]" for his political beliefs regarding unlawful conscription, torture while he was held in government-sponsored detention, and the execution of his father, for similar reasons. The application was timely-filed and bore the hallmarks of a qualifying claim. *See* 8 U.S.C. § 1158(b)(1)(B)(i); 8 C.F.R. § 208.4(a)(2).

4. On December 22, 2025, Petitioner was arrested by ICE agents in a "targeted enforcement operation." Exh. "C," p. 5. He was observed getting into his vehicle and his license plates were ran in a background check. When the Department of Homeland Security ("DHS") determined he had committed an unnamed immigration violation, and warrant was created at that point, and his vehicle was stopped. *Id.*

5. Nowhere in Respondent's evidence is it alleged that Petitioner violated the conditions of his release on recognizance, or any other terms of the supervision he was subject to. *See generally* Exh. "C." Petitioner presumes that his "immigration violation" is his entry into the United States without authorization – a non-criminal, civil violation under 8 U.S.C. § 1182(a)(6)(A)(i).

1 6. Petitioner has no criminal history or record of criminal arrests in the United
2 States. Exh. "C," p. 6.

3 7. On January 27, 2026, Petitioner proceeded on the merits of his asylum application
4 and attended an individual calendar hearing at the Tacoma Immigration Court. Form I-589 was
5 denied, with the Immigration Judge finding that he is an incredible witness. Petitioner has
6 reserved appeal; however, the Tacoma Immigration Court has yet to issue a final decision in the
7 case. Petitioner now awaits the entry of a written decision to appeal from. Exh. "B."

8 8. Petitioner intends to appeal the Immigration Judge's decision as it was biased,
9 misconstrued his testimony, and contained errors constituting an abuse of discretion.

10 9. Making matters more difficult is that Petitioner cannot seek a release from
11 custody through the Tacoma Immigration Court, in accord with *Matter of Q. LI*, 29 I&N Dec. 66
12 (BIA 2025). An Immigration Judge would no longer hold jurisdiction over his custody under 8
13 U.S.C § 1229(a).

14 10. Despite the recent adjudication of Petitioner's I-589, this Court held many times
15 over that due process generally requires an individualized hearing prior to the government's
16 decision to terminate someone's liberty. *See, e.g., E.A. T.-B. v. Wamsley*, --- F. Supp. 3d --- No.
17 C25-1192-KKE, 2025 WL 2402130, at *2-6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v.*
18 *Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2-4 (W.D.
19 Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25- CV-01404-JNW-GJL, 2025 WL
20 2841574, at *7-9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-
21 BAT, 2025 WL 2677089, at *2-4 (W.D. Wash. Sept. 17, 2025); Report & Recommendation,
22 *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-ML (W.D. Wash. Oct. 15, 2025), Dkt. 13;
23 *Y.M.M. v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6,

2025). Many other U.S. District Courts have recently made similar holdings. *See, e.g., Y-Z-L-H v. Bostock*, 792 F. Supp 3d 1123, 1138 (D. Or. 2025) (“Common sense suggests...that parole given only a on case-by-case basis is to be terminated only on [an individualized] basis.”)

11. Accordingly, this Court should grant a petition for a writ of habeas corpus and order Petitioner’s immediate release. *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*, 2025 WL 2637663, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar); *Ledesma Gonzalez*, 2025 WL 2841574, at *9 (similar); *Y.M.M.*, 2025 WL 3101782, at *2–3 (similar).

PARTIES

12. Petitioner, Mr. Hasan Omer Husen, is a native and citizen of Ethiopia, presently held at the Northwest ICE Processing Center in Tacoma, Washington.

13. Respondent, Ms. Kristi Noem, is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. Ms. Noem is the cabinet-level secretary responsible for all immigration enforcement in the United States. She implements enforcement of the Immigration and Nationality Act (“INA”) and oversees the operations of ICE.

14. Respondent, Mr. Todd Lyons, is sued in his capacity as the Acting Director of ICE, which is tasked with executing all immigration law enforcement in the United States.

15. Respondent, Ms. Laura Hermosillo, is sued in her official capacity as the Field Office Director of Seattle’s ICE Field Office, which exercises control over King County, the site of Petitioner’s arrest. She bears responsibility for the apprehension, detention, and removal of

1 noncitizens within her Field Office's jurisdiction. Ms. Hermosillo is the immediate legal
2 custodian of the Petitioner, for purposes of a federal habeas petition.

3 16. Respondent, Mr. Bruce Scott, is sued in his official capacity as the Warden of the
4 Northwest ICE Processing Center, the privately-operated immigration detention facility where
5 Petitioner is being held in custody. He exercises direct custody over the Petitioner.

6 JURISDICTION

7 17. This action arises under the Constitution of the United States and the Immigration
8 and Nationality Act ("INA"). 8 U.S.C. § 1101 et. seq.; *see also Reno v. Flores*, 507 U.S. 292,
9 306 (1993) (affording immigrants Due Process under the Fifth Amendment).

10 18. The Court holds subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
11 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
12 Constitution (Suspension Clause).

13 19. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
14 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. §
15 1651.

16 VENUE

17 20. Venue is appropriate under because the Petitioner is detained in this judicial
18 district. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

19 21. Venue is also properly with this Court under 28 U.S.C. § 1391(e) because
20 Respondents are employees, officers, and agencies of the United States, and a substantial part of
21 the events or omissions giving rise to this petition have occurred in the Western District of
22 Washington.
23

22. For the same reasons, divisional venue is proper under Local Rule 3-2.

REQUIREMENTS OF 28 U.S.C. §§ 2243, 2241

23. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . as it [affords] a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

24. Petitioner is “in custody” for the purpose of 8 U.S.C. § 2241 because he is held at the Northwest ICE Processing Center. “[T]he Supreme Court has repeatedly held that the in-custody requirement is met where the Government restricts a petitioner’s freedom of action or movement.” *Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), citing *Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

LEGAL FRAMEWORK

25. Due process requires that if the DHS seeks to re-arrest a person like Petitioner — i.e., someone who was previously released from its custody, has been dutifully complying with the terms of his release, and has lived in the United States without incident — the government must provide at least *some* sort of hearing before a neutral decisionmaker to determine whether re-detention is necessary. Typically, re-detention is only justifiable when a person can be considered a flight risk or danger to the community.

1 26. All persons, regardless of their immigration status, are entitled to Due Process
2 under the Fifth Amendment of the U.S. Constitution. “Freedom from imprisonment—from
3 government custody, detention, or other forms of physical restraint—lies at the heart of the
4 liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As
5 this Court recently recognized, it is the “the most elemental of liberty interests.” *E.A. T.-B.*, 2025
6 WL 2402130, at *3 (citation modified); *see also Ramirez Tesara*, 2025 WL 2637663, at *3
7 (stating that the petitioner had “an exceptionally strong interest in freedom from physical
8 confinement”). Immigration detention is a form of civil confinement that “constitutes a
9 significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441
10 U.S. 418, 425 (1979).

11 27. Custody determinations for “applicants for admission” in § 1229a removal
12 proceedings are governed by 8 U.S.C. § 1225. As referenced above, the BIA now finds that
13 aliens initially detained under 8 U.S.C. § 1225(b) no longer have eligibility for release under 8
14 U.S.C. § 1229(a). *See also* 8 C.F.R. § 1003.19(h)(2)(i)(B). However, the DHS does retain the
15 authority to parole or release individuals such people from custody, as it regularly does under 8
16 C.F.R. § 212.5(a)-(c), 8 U.S.C. § 1182(d)(5); 8 C.F.R. § 1003.19(d). This is precisely what
17 happened when Petitioner was released in April of 2023.

18 28. Consistent with this principle, those released on parole or conditional release have
19 an interest in their “continued liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

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

1 30. Many courts, including this one, have recognized that such principles apply with
2 respect to the re-detention of noncitizens – especially those the DHS has arbitrarily begun
3 returning into its custody, often after such person have been released for months, or as we see
4 here, for years. *See, e.g., Makuey v. Scott et. al.*, No. 2:25-cv-02135 (W.D. Wash Dec. 16, 2025)
5 (revocation of Petitioner’s Order of Supervision without a “material change in circumstances”
6 found to be in violation of due process, despite prior criminal history, which was already known
7 when prior Order of Supervision was issued).

8 31. In *E.A. T.-B. v. Wamsley, supra*, this Court applied the *Mathews v. Eldridge*, 424
9 U.S. 319 (1976) framework to hold that, even when the government asserts that mandatory
10 detention statutorily applies, a person’s re-detention cannot occur absent a hearing on their
11 custody. The Court reached the same conclusion in *Ramirez Tesara, Kumar, and Ledesma*
12 *Gonzalez*. *See Ramirez Tesara*, 2025 WL 2637663, at *2–3; *Kumar*, 2025 WL 2677089, at *2–3;
13 *Ledesma Gonzalez*, 2025 WL 2841574, at *7–8.

14 32. In applying the *Mathews* factors, the *E.A. T.-B.* Court held that the petitioner had
15 “undoubtedly [been] deprive[d] of an established interest in his liberty,” 2025 WL 2402130, at
16 *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation modified). The Court
17 explained that, even if detention was mandatory under the INA, the risk of an erroneous
18 deprivation of liberty without a hearing was high, as a hearing serves to ensure that the purposes
19 of detention—the prevention of danger and flight risk—are properly served. *Id.* at *4–5.

20 33. Moreover, the *E.A. T.-B.* Court explained that “the Government’s interest in re-
21 detaining non-citizens previously released without a hearing is low: although it would have
22 required the expenditure of finite resources (money and time) to provide Petitioner notice and
23 hearing 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.

34. This Court applied a similar analysis in *Ramirez Tesara*. There, it 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 noted that, despite the government’s allegations of Intensive Supervision Appearance Program (“ISAP”) violations, a belief that 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). *Ramirez Tesara*, the Court concluded that any government interest in re-detention without a hearing was “minimal.” *Id.* Once again, it ordered the petitioner’s immediate release. *Id.* at *5.

35. The *Kumar* and *Ledesma Gonzalez* courts reached the same decision, holding that all *Mathews* factors weighed in favor of affording the petitioner a proper hearing on his or her re-detention. 2025 WL 2677089, at *3–4; 2025 WL 2841574, at *7–9; *see also* Report & Recommendation, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13 (same). The decisions in *E.A. T.-B.*, *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez* 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); *Garro 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).

CLAIMS FOR RELIEF

COUNT ONE

**Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
– Abuse of Discretion –
Violations of 8 C.F.R. §§ 1236.1(c)(9), 241.13(b)(2)-(3), 241.13(i)**

36. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the preceding paragraphs as if fully set forth herein.

37. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A); *Kazarian v. U.S. Citizenship & Immigr. Servs.*, 596 F.3d 1115, 1118 (9th Cir. 2010) (quoting § 706 (2)(A)). District Courts may also review “[a]gency actions made reviewable by statute and final agency action for which there is no other adequate remedy.” 6 U.S.C. § 704; *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 61-62 (2004). Reviewable action includes “the whole or part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.” *See* 5 U.S.C. § 551(13). Agency action is deemed final if it (1) “impose[s] an obligat[ion], den[ies] a right or fix[es] some legal relationship as a consummation of the administrative process[.]” *Chicago & S. Air Lines v. Waterman S. S. Corp.*, 333 U.S. 103, 113 (1948) (citation omitted), and (2) is an action “by which ‘right or obligations have been determined’ or from which ‘legal consequences will flow,’” *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation omitted).

38. This Court therefore holds jurisdiction under 8 U.S.C. § 1252(b)(9) to review Petitioner’s APA claim, since Congress explicitly authorizes judicial review of final orders conserving “all questions of law and fact, including interpretations and applications of

1 constitutional and statutory provisions, arising from any action taken or proceeding brought to
2 removal an alien from the United States” for noncitizen detainees.

3 39. An action is an abuse of discretion if the agency entirely fails to offers an
4 explanation for its decision that runs counter to the evidence before the agency, or acts so
5 implausibly that it cannot not be ascribed to a difference in view or the product of agency
6 expertise. *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (citing
7 *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
8 (1983)).

9 40. To survive an APA challenge, the agency must articulate “a satisfactory
10 explanation” for its action, “including a rational connection between the facts found and the
11 choice made.” *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

12 41. By categorically revoking Petitioner’s freedom and bringing him into federal
13 custody, without written notification outlining the reasons or a consideration of the
14 individualized facts and circumstances, and – by its own concession – not possessing an
15 administrative warrant for his arrest until he *after* Petitioner was seen in public and determined to
16 be a noncitizen, Respondents have violated the APA.

17 42. By continuing to detain Petitioner, Respondents have further abused their
18 discretion as there have been no changes to the facts or circumstances since the DHS made its
19 recent custody determination, which is the basis for his current detention.

20 43. Respondents previously considered Petitioner’s facts and circumstances and
21 determined that he was neither a flight risk nor a danger to the community. The notion that he is
22 neither a danger nor flight risk has only strengthened in the time since his conditional release.
23 Petitioner has fulfilled the terms of his release on recognizance, has not worked without

1 authorization, and has never been arrested for a crime. The DHS authorized his release into the
2 United States – without the requirement that he pay a bond – and there have been no changes to
3 the facts justifying the sudden revocation of his freedom.

4
5 **COUNT TWO**

6 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(B)-(D)**
7 **– Not in Accordance with Law and in Excess of Statutory Authority –**
8 **Violations of 8 C.F.R. §§ 1236.1(c)(9), 241.13(b)(2)-(3), 241.13(i)**

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

10 45. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is
11 “contrary to constitutional right,” “in excess of statutory jurisdiction, authority, or limitations,”
12 or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

13 46. It is a well-established administrative principle that “agency action taken without
14 lawful authority is at least voidable, if not void *ab initio*.” *L.M.-M. v. Cuccinelli*, 442 F. Supp.
15 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see*
16 *also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating
17 agency action because it was taken by unauthorized official). Agencies such as the DHS are
18 required to adhere to their own established rules and regulations. *United States ex rel. Accardi v.*
19 *Shaughnessy*, 347 U.S. 260 (1954).

20 47. Respondents have revoked Petitioner’s ability to live freely in the United States
21 because of a categorical policy prepared and implemented by government officials in
22 Washington D.C., and not by the individual exercise of discretion required by law or by the
23 individuals enumerated by regulation to do so.

24 48. The detention of Petitioner is thus not in accordance with law and exceeds
statutory authority.

COUNT THREE

Violation of the Fifth Amendment Right to Procedural Due Process

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

50. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

51. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custodial decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *Zadvydas* at 698.

52. Although the initial decision to detain or release a person may be at government discretion, “the government’s decision to release an individual from custody creates ‘an implicit promise,’ upon which that individual may rely, that their liberty ‘will be revoked only if [they] fail to live up to the ... conditions [of release].’” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Stated otherwise, while ICE has the discretion to detain or release a noncitizen pending removal proceedings, after that person is released they have a protected liberty interest in remaining out of custody. *Id.* (citing *Romero v. Kaiser*, No. 22-cv-20508, 2022 WL 1443250 (N.D. Cal. May 6, 2022)) (emphasis added).

53. The Due Process Clause generally “requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). For

1 cases involving re-detention, the guiding authority on this process stems from *Mathews, supra*.
2 Under *Mathews*, a reviewing court must consider “(1) the private interest that will be affected by
3 the official action, (2) the risk of an erroneous deprivation of that interest through the procedures
4 used, and the probable value, if any, of additional or substitute procedural safeguards, and (3) the
5 Government’s interest, including the function involved and the fiscal and administrative burdens
6 that an additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 325.

7 Petitioner’s Private Interest

8 54. “[T]he Supreme Court has repeatedly recognized that individuals who have been
9 released from custody, even where such release is conditional, have an interest in their continued
10 liberty.” *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (collecting cases).

11 Consequently, when Petitioner was released on an OSUP in 2002, he “took with him a liberty
12 interest which is entitled to the full protections of the [D]ue [P]rocess [C]lause.” *Ramirez Tesara*
13 *v. Wamsley*, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *3 (W.D. Wash. Sept. 12,
14 2025).

15 55. Petitioner’s liberty interest was reaffirmed for thirty-two months, and that
16 Respondents allowed him to remain in the community for that long only strengthens his interest.
17 *See Dejesus v. Bostock*, No. 25-CV- 01427-JHC-TLF, 2025 WL 3268002, at *3 (W.D. Wash.
18 Nov. 24, 2025). He has now been undeniably deprived of a liberty interest; Petitioner was
19 arrested, brought into custody, and detained without a shred of evidence regarding any violations
20 to the terms of his conditional release. The first *Mathews* factor clearly favors Petitioner.

1 Risk of Erroneous Deprivation

2 56. The second *Mathews* factor examines “the risk of an erroneous deprivation of [the
3 petitioner’s private] interest through the procedures used, and the probable value, if any, of
4 additional or substitute procedural safeguards[.]” *Mathews*, 424 U.S. at 335.

5 57. The erroneous deprivation of Petitioner’s liberty interest was significant. It was
6 made in violation of the agency’s own regulations, was not based on an individualized
7 determination of his being a flight risk or danger to the community, and he has now been jailed
8 for nearly three months. He has lost income and been separated from his family members
9 residing in King County; moreover, at no point has the government even examined the probable
10 value of substitute safeguards to ensure his attendance in future removal proceedings. The
11 government’s actions have not only created a risk, but have materialized into an actual and
12 wrongful deprivation of his liberty.

13 The Government’s Interest in Detention

14 58. The third *Mathews* factor contemplates “the Government’s interest, including the
15 function involved and the fiscal and administrative burdens that the additional or substitute
16 procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

17 59. The government’s interest in re-detaining an alien, who has not violated the terms
18 of his conditional release – and to do so without the benefit of a pre-detention hearing or process
19 – is low. *See Wamsley*, 2025 WL 2402130, at *5 (“the Government’s interest in re-detaining non-
20 citizens previously released without a hearing is low”) (citing *Ortega*, 415 F. Supp. 3d at 970).
21 Although a pre-detention process would’ve presented some administrative burden on the
22 government, given the high risk of an erroneous deprivation and the fundamental liberty interests
23 at stake, offering *no* process is flat-out constitutionally deficient. *E.A. T.-B.*, 2025 WL 2402130, at

*6; *see also Makuey v. Scott et. al.*, No. 2:25-cv-02135 *12 (W.D. Wash Dec. 16, 2025) (noting that the process referred to in 8 C.F.R. § 241.13(i)(3) does not guard against the improper deprivations of liberty, in instances where the government lacks the authority to revoke release in the first place).

60. All three *Mathews* factors thus favor the Petitioner. The revocation of his to live freely in the United States, after nearly three years of building a life in this country, was done in an arbitrary and incoherent manner and not based on a rational determination of whether he is a danger to the community or a flight risk. The actions of Respondents constitute a fundamental violation of due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to:

- 1) Assume jurisdiction over this matter;
- 2) Issue an Order to Show Cause ordering Respondents to demonstrate why this Petition should not be granted within three days;
- 3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- 4) Declare that Petitioner's re-detention was made in violation of statute and regulation;
- 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- 6) Issue an Order prohibiting the Respondents from transferring Petitioner outside the district without 48 hours' advance notice to the undersigned and the Court;

- 1 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
2 on any other basis justified under law; and
3 8) Grant any further relief this Court deems just and proper.
4

5 Respectfully submitted,

6 Dated: February 11th, 2026

7 s/ Benjamin Cornell
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14 *Attorney for Petitioner*
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VERIFICATION OF PETITIONER

On behalf of Hasan Omer Husen, the party in custody, I verify the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief and having reviewed the relevant records and pleadings. Mr. Husen has not verified the petition himself as he is currently held in ICE custody.

Dated: February 11th, 2026

s/ Benjamin Cornell
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Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

US Attorneys
Email: usawaw.habeas@usdoj.gov

Dated: February 11th, 2026

s/ Benjamin Cornell
Benjamin Cornell, WSB #49533