UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Edison CAIZA AUCATOMA, Joe KAYUMBA, Edwin MORALES-TUNUBALA,

Petitioner,

v.

Julio HERNANDEZ, Seattle Acting Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement; Bruce SCOTT, Warden, Northwest ICE Processing Center; Markwayne MULLIN, United States Secretary of Homeland Security; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; Todd BLANCHE, Acting United States Attorney General;

Respondents.

Case No. 2:26-cv-1253

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

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INTRODUCTION

1. This case challenges Respondents' unlawful re-detention of Petitioners Edison Caiza Aucatoma, Joe Kayumba, and Edwin Morales-Tunubala. Petitioners are currently in the physical custody of Respondents at the Northwest ICE Processing Center (NWIPC).

2. Petitioners were apprehended after entering the United States and subsequently released from immigration custody for the purpose of pursuing immigration relief. Since their releases, Petitioners have fulfilled their conditions of release to the best of their abilities, submitted applications, remained engaged with pending removal proceedings, and variously received employment authorization, graduated high school, and built lives in the United States. Petitioners have no criminal history.

3. Despite Petitioners' compliance while released, they were abruptly and unlawfully re-detained by the Department of Homeland Security (DHS).

4. Prior to re-detaining Petitioners, Respondents did not provide any written notice explaining the basis for the revocation of their releases. Likewise, Respondents did not assess whether Petitioners presented a flight risk or danger to the community prior to their re-arrests. Nor did Respondents provide a hearing before a neutral decisionmaker, where Immigration and Customs Enforcement (ICE) was required to justify the basis for re-detention and to explain why each is now a flight risk or danger to the community.

5. As this Court has recently held in multiple cases, due process demands a hearing *prior* to the government's decision to terminate a person's liberty. *See, e.g.*, *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1321–24 (W.D. Wash. 2025); *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1136–38 (W.D. Wash. 2025); *Ledesma Gonzalez v. Bostock*, 808 F. Supp. 3d 1189, 1201–03 (W.D. Wash. 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025

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WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); *Y.M.M. v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025); *P.T. v. Hermosillo*, No. C25-2249-KKE, 2025 WL 3294988, at *4 (W.D. Wash. Nov. 26, 2025); *Francois v. Wamsley*, No. 2:25-cv-02122-RSM-GJL, 2025 WL 3496557, at *4 (W.D. Wash. Dec. 5, 2025); *Tomas Manuel v. Hermosillo*, No. C25-2353-TL-MLP, 2025 WL 3690778, at *3 (W.D. Wash. Dec. 10, 2025), *R&R adopted*, No. C25-2353-TL-MLP, 2025 WL 3697277 (W.D. Wash. Dec. 19, 2025); *Cabrera Perez v. Hermosillo*, No. 2:25-cv-02542-RSM, 2026 WL 100735, at *6 (W.D. Wash. Jan. 14, 2026); *Tsyamba v. Hermosillo*, No. 2:25-CV-02623-GJL, 2026 WL 237514, at *4–7 (W.D. Wash. Jan. 29, 2026); *Shinwari v. Hermosillo*, No. 2:26-CV-00009-RAJ, 2026 WL 262605, at *4 (W.D. Wash. Jan. 30, 2026); *Sarwari v. Wamsley*, No. 2:26-cv-00121-TL, 2026 WL 279968, at *3–6 (W.D. Wash. Feb. 3, 2026); *Arroyo Silva v. Hermosillo*, No. 2:26-cv-00179-GJL, 2026 WL 445003, at *5 (W.D. Wash. Feb. 17, 2026); *Arrioja Blanco v. Hermosillo*, No. C26-493-MLP, 2026 WL 548056, at *3–4 (W.D. Wash. Feb. 27, 2026); *Caceres Banegas v. Hermosillo*, No. 2:26-cv-00499-TSZ, 2026 WL 586234, at *1–2 (W.D. Wash. Mar. 2, 2026); *Ortiz v. Hermosillo*, No. 2:26-cv-00384-TL, 2026 WL 607672, at *5 (W.D. Wash. Mar. 4, 2026); *Espinoza Palacios v. Hermosillo*, No. 2:26-cv-491-JNW, 2026 WL 686138, at *7 (W.D. Wash. Mar. 11, 2026); *Caisa Telenchana v. Hermosillo*, No. 2:26-cv-00363-GJL, 2026 WL 696806, at *10–12 (W.D. Wash. Mar. 12, 2026); *Colina Castro v. Hermosillo*, No. C26-662-SKV, 2026 WL 817388, at *5–*7 (W.D. Wash. Mar. 25, 2026). Many other courts have recently held the same.

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

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7. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and order Petitioners' immediate release. *See, e.g.*, *E.A. T.-B.*, 795 F. Supp. 3d at 1324 (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*, 800 F. Supp. 3d at 1138 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar); *Ledesma Gonzalez*, 808 F. Supp. 3d at 1204 (similar); *Y.M.M.*, 2025 WL 3101782, at *2–3 (similar); *P.T.*, 2025 WL 3294988, at *4 (similar).

8. Moreover, Respondents have now had over seven months' notice that their practice of re-detaining noncitizens without prior notice and a pre-deprivation hearing is unlawful. *See, e.g.*, *Ortiz v. Hermosillo*, 2026 WL 607672, at *5 ("Respondents have been on notice in this District since at least August 19, 2025, that re-detaining individuals who originally had been detained at the border and then released without notice and an opportunity to be heard violates the Fifth Amendment's Due Process clause." (citing *E.A. T.-B.*, 795 F. Supp. 3d at 1324)).

9. In the time since, Respondents have continued to unlawfully re-detain individuals like Petitioners without providing notice and without justifying the sudden revocation of liberty before a neutral adjudicator. *See, e.g.*, *id.* (collecting "at least ten" examples of similarly-situated individuals who were unconstitutionally re-detained between October 2025 and December 2025 (citations omitted)); *Espinoza Palacios*, 2026 WL 686138, at *1–5 (ordering immediate release for nine petitioners whom the court found had been unlawfully re-detained, including five who had been re-detained without notice or hearing between December 2025 and January 2026); *supra* ¶ 5 (citing cases collectively involving dozens of petitioners detained since the fall of 2025). Respondents' ongoing and intentional failure to abide by the requirements of due process

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demonstrates that even if the Court orders Petitioners' release from their current unlawful detention, they face a significant likelihood of similar violation of their rights in the future.

10. Accordingly, in addition to seeking immediate release, Petitioners also request that this Court enjoin Respondents from re-detaining them without notice and an opportunity to be heard on the basis for re-detention before a neutral decisionmaker.

JURISDICTION

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

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

13. 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.

VENUE

14. Venue is proper because Petitioners are 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 Petitioners are currently in custody.

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

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REQUIREMENTS OF 28 U.S.C. § 2243

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

17. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "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); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is "a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination").

PARTIES

18. Petitioner Edison Caiza Aucatoma is a citizen of Ecuador. He is detained at the NWIPC.

19. Petitioner Joe Kayumba is a citizen of the Democratic Republic of Congo. He is detained at the NWIPC.

20. Petitioner Edwin Morales-Tunubala is a citizen of Colombia. He is detained at the NWIPC.

21. Respondent Julio Hernandez is the Acting Field Office Director for ICE's Seattle Field Office. The Seattle Field Office is responsible for local custody decisions relating to

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noncitizens charged with being removable from the United States. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Respondent Hernandez is a legal custodian of Petitioners and is sued in his official capacity.

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

23. Respondent Markwayne Mullin is the United States Secretary of Homeland Security and the head of the U.S. Department of Homeland Security. He is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioners' detention. Mr. Mullin has ultimate custodial authority over Petitioners and is sued in his official capacity.

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

25. Respondent Todd Blanche is the Acting Attorney General of the United States, and as such has authority over the Department of Justice. He is sued in his official capacity.

FACTUAL BACKGROUND

Petitioner Edison Caiza Aucatoma

26. Petitioner Edison Caiza Aucatoma is a citizen of Ecuador who fled his country with his mother and entered the United States on August 10, 2023, when he was 17 years old. Caiza Aucatoma Decl. ¶¶ 1–2. He and his mother were briefly detained near the border and were subsequently released on recognizance. *See id.* ¶¶ 2–3. At that time, they were also placed in removal proceedings, with their initial hearing scheduled for August 29, 2024, at the

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Minneapolis Immigration Court. *Id.* ¶ 3. Border officials also enrolled Mr. Caiza Aucatoma's mother in the Intensive Supervision Appearance Program (ISAP), issuing her a phone to conduct weekly check-ins, and instructing her to report to the ISAP office in Minneapolis upon their arrival. *Id.*

27. Following their release, Mr. Caiza Aucatoma and his mother briefly lived in Minnesota before they settled in New Jersey. *Id.* ¶ 4. In both states, they diligently complied with the requirements of their release. *See, e.g.*, *id.* ¶¶ 4–5. After their arrival in Minnesota, they promptly reported together in person to the local ISAP office. *Id.* ¶ 4. There, ISAP officers collected the government-issued phone and installed an application on Mr. Caiza Aucatoma's mother's personal phone. *Id.* His mother was instructed to send weekly photos of herself via the application and to complete biweekly video calls. *Id.* She requested and received permission for the two to move to New Jersey, and was instructed to check in with ISAP once they arrived. *Id.*

28. In New Jersey, Mr. Caiza Aucatoma and his mother continued to diligently comply with their reporting obligations. *Id.* ¶ 5. They reported to the ISAP office in New Jersey the day after their arrival. *Id.* Mr. Caiza Aucatoma's mother was instructed to continue to send weekly photos, complete biweekly video calls, and report on a monthly basis in person at the ISAP office. *Id.* Mr. Caiza Aucatoma, still a minor at the time, was not given any independent reporting instructions. *See id.* ISAP officers also told him and his mother that Mr. Caiza Aucatoma should not miss school to attend the in-person check ins, and that only his mother was required to attend. *Id.* His mother complied with these obligations, and Mr. Caiza Aucatoma accompanied his mother to appointments when he was not in school. *See id.*

29. In 2025, Mr. Caiza Aucatoma and his mother went to their local ICE office of their own volition to ask about the possibility of moving out of state for Mr. Caiza Aucatoma to

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attend college. *Id.* ¶ 6. They wanted to seek permission and ensure that they followed the correct procedures. *Id.* After discussing the process with ICE officers, they ultimately decided not to move because of their pending immigration case. *Id.*

30. That same year, the ISAP application on Mr. Caiza Aucatoma's mother's phone stopped accepting her photos, so both mother and son reported in person at the ISAP office to inquire. *Id.* ¶ 7. ISAP officials deleted the application from his mother's phone, advising them that they were no longer required to participate in the ISAP program now that they had been issued employment authorization documents, and instructing them to instead report to ICE. *Id.*

31. Mr. Caiza Aucatoma and his mother reported to the Newark ICE office on November 5, 2025. *Id.* ¶ 8. There, Mr. Caiza Aucatoma was advised that because he was no longer a minor, he would have his own ICE check-ins. *Id.* His first solo check-in was scheduled for November 5, 2026. *Id.* His mother was given separate reporting dates and attended scheduled ICE appointments in January 2026 and April 2026. *Id.*

32. Mr. Caiza Aucatoma and his mother also diligently pursued their asylum claim in immigration court. *Id.* ¶ 9. With the assistance of counsel, they changed venue from Minnesota to New Jersey, timely filed their asylum application in July 2024, and received Employment Authorization Documents (EAD) in March of 2025. *Id.* As they waited for their initial hearing to be scheduled, they regularly contacted their attorney to check on the status of the case. *Id.* ¶ 10. At the time of his arrest, Mr. Caiza Aucatoma and his mother had still not been scheduled for their initial master calendar hearing. *Id.*

33. Mr. Caiza Aucatoma has no criminal history. *Id.* ¶ 14. After he graduated from his high school in New Jersey, Mr. Caiza Aucatoma found work as a laborer to help his mother pay the bills. *See id.* ¶¶ 12–13. He and his mother hoped he could eventually attend college, and he

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was attending English classes in pursuit of that goal. *Id.* They have built a network of supportive friends and are active members of their local church, where they attended services every Sunday. *Id.* ¶ 19.

34. On January 17, 2026, Mr. Caiza Aucatoma was re-detained while on his way to work. *Id.* ¶ 15. On that day, he was riding as a passenger in a vehicle when two unmarked cars surrounded it. *Id.* Seven or eight agents exited the cars, instructed the driver to lower his window, and asked him if he was undocumented. *Id.* After arresting the driver, the agents proceeded to question each of the passengers, including Mr. Caiza Aucatoma. *Id.* They asked him for his identification, scanned his face, then ordered him down from the car and handcuffed him. *Id.* They did not tell Mr. Caiza Aucatoma that he was under arrest or offer any reason for his arrest. *Id.* Instead, the officers brought all four of the vehicle's occupants to a van, where they were held for about an hour. *Id.* While waiting, Mr. Caiza Aucatoma pleaded with officers, telling them they had no warrant for him and were not looking for him, but the officers ignored him. *Id.* The van had capacity for eight passengers. *Id.* Once another four people were arrested and loaded into the van, they traveled to an ICE office for processing. *Id.* ¶ 16.

35. At the office, Mr. Caiza Aucatoma was asked a few questions and fingerprinted, but was never given a chance to ask questions or explain himself. *Id.* He was never told the reason for his re-arrest. *Id.* After many hours had passed, officers chained Mr. Caiza Aucatoma by his hands and feet and transferred him first to a detention center in Newark, New Jersey, where he was held for two weeks, then to another detention center in Arizona, and finally to the NWIPC in Tacoma, where he remains detained. *Id.* ¶¶ 16–17.

36. Mr. Caiza Aucatoma's final merits hearing on his asylum application is scheduled for May 1, 2026. *Id.* ¶ 17.

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37. Mr. Caiza Aucatoma is nineteen years old. *Id.* ¶ 1. Being re-detained and separated from his mother has been very difficult for him. *Id.* ¶ 18. He is fearful of being detained with adults much older than him. *Id.* He has lost weight since being detained and worries constantly about his mother, who is now alone without him for the first time. *Id.*

38. Prior to Mr. Caiza Aucatoma's re-arrest in January 2026, he did not receive written notice of the reason for his re-detention.

39. Prior to Mr. Caiza Aucatoma's re-arrest, ICE did not assess whether he presented a flight risk or danger to the community.

40. Prior to Mr. Caiza Aucatoma's re-arrest, he was not afforded a hearing before a neutral decisionmaker to determine if his re-detention was justified.

Petitioner Joe Kayumba

41. Petitioner Joe Kayumba is a citizen of the Democratic Republic of Congo who fled his country after receiving death threats due to [redacted] Kayumba Decl. ¶ 1. A professional athlete in his home country, Mr. Kayumba was targeted by his government for [redacted] *See id.* After entering the United States on September 1, 2023, he was briefly held in immigration custody before being released for removal proceedings and with instructions to report to his local ICE office within a month of reaching his destination. *Id.* ¶ 2.

42. Mr. Kayumba thereafter moved to Washington State and presented himself at the Tukwila ICE Field Office as requested. *Id.* He provided his new address to ICE and was given a date to return for an office check-in. *Id.* He subsequently returned as instructed and attended three to four such appointments between 2023 and 2025. *Id.* To his knowledge, he had no requirements beyond these check-in appointments. *Id.*

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43. Mr. Kayumba settled in Fife, Washington, *id.* ¶ 4, and made efforts to pursue lawful status, *see id.* ¶ 3. He found an attorney for his immigration case and filed his asylum application within his first year in the United States. *Id.* ¶ 3. He was approved for an EAD, with authorization to work through 2030, *id.* ¶ 3, and his first court date was scheduled for October 2026, *id.* ¶ 5.

44. In the meantime, Mr. Kayumba trained to resume his career as a professional Taekwondo athlete. *Id.* ¶ 4. In 2024, he successfully competed in the U.S. World Open Kombat Taekwondo Championships for Olympic Sparring. *Id.* In December 2025, he became engaged to [redacted] and the two began planning a life together with support from their Congolese community. *See id.*

45. From 2023 to 2025, Mr. Kayumba complied with the requirements of his release to the best of his ability. *See id.* ¶¶ 2, 5. He recalls only one instance on October 6, 2025, when he was severely sick and unable to attend a scheduled ICE appointment. *Id.* ¶ 5. Because Mr. Kayumba lacked health insurance, he was unable to seek medical attention from a doctor. *Id.* As soon as he felt better, Mr. Kayumba voluntarily presented himself at the Tukwila ICE Field Office in November 2025 to explain that he had been sick and to ask to reschedule his check-in. *Id.* He reported without issue and was scheduled for another check-in on December 15, 2025. *Id.* Mr. Kayumba has no criminal history. *Id.* ¶ 7.

46. On December 15, 2025, Mr. Kayumba arrived at the ICE office about one hour later than planned because he depended on a friend for a ride to his appointment. *Id.* ¶ 6. Once inside the building, ICE officers took him to another room, where he was searched and re-arrested without a chance to explain. *Id.*

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47. ICE officers then transported him to the NWIPC in Tacoma, Washington, where he remains. *See id.* ¶ 8. He is separated from [redacted] who is enduring economic and housing insecurity without Mr. Kayumba's assistance. *Id.* ¶ 10.

48. Since being re-detained, Mr. Kayumba has been unable to afford his attorney's legal fees, leading his attorney to withdraw from the case the day before his individual hearing on his asylum application. *See id.* ¶ 9. Although Mr. Kayumba did his best to gather evidence on his own with help from his community, the immigration judge refused to accept either his declaration or his evidence on the of his hearing. *Id.* Mr. Kayumba's asylum application was denied on March 11, 2026. *Id.* Mr. Kayumba is preparing to file a timely appeal to the Board of Immigration Appeals (BIA). *Id.*

49. Prior to Mr. Kayumba's re-arrest in December 2025, he did not receive written notice of the reason for his re-detention.

50. Prior to Mr. Kayumba's re-arrest, ICE did not assess whether he presented a flight risk or danger to the community.

51. Prior to Mr. Kayumba's re-arrest, he was not afforded a hearing before a neutral decisionmaker to determine if his re-detention was justified.

Petitioner Edwin Morales-Tunubala

52. Petitioner Edwin Morales-Tunubala is a citizen of Colombia who fled [redacted] and seeks protection in the United States. *See* Morales-Tunubala Decl. ¶¶ 1–2. After entering the United States on September 9, 2022, he was briefly detained in immigration custody and released to pursue removal proceedings in Colorado. *See id.* ¶¶ 2, 5.

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53. Mr. Morales-Tunubala followed instructions to report to his local ICE office upon reaching Denver and was registered for the Intensive Supervision Appearance Program (ISAP). *Id.* ¶¶ 2–3. He was told to submit photos via a mobile application each Monday, to attend monthly home visits, and to report to the ICE office every month. *Id.* ¶ 3. Mr. Morales-Tunubala always complied with these requirements to the best of his ability. *Id.* ¶ 4.

54. Mr. Morales-Tunubala also participated in his immigration court case. *Id.* ¶ 5. He filed a timely asylum application, appeared *pro se* at his first hearing in 2023, hired an attorney, attended a second court hearing in 2024, and received more time to prepare his case. *Id.*

55. Throughout, Mr. Morales-Tunubala never missed any home visits or office appointments, *id.* ¶ 6, and was only ever notified of one issue with a photo requirement in 2024, *id.* ¶ 4. On that morning, Mr. Morales-Tunubala had already left home to get to work when he received the notification to submit a photo through the mobile application. *Id.* ¶ 4. After he sent a photo of himself from his commute, he was notified that he needed to send proof that he was at home. *Id.* Because he needed to go to work, Mr. Morales-Tunubala called his assigned officer to explain and was told that he should wait to discuss this at his next in-office appointment. *Id.* Mr. Morales-Tunubala subsequently continued to complete check-ins without further problems. *Id.* Around February 2025, he received an ankle monitor and wore it without issue. *Id.* He continued to complete home visits and was never told of any issues with his ankle monitor nor that he could be re-arrested for having sent a photo while on his way to work in 2024. *Id.*

56. Mr. Morales-Tunubala lived in Denver with his wife, Yareli, a U.S. citizen, among a supportive network of family and friends. *Id.* ¶ 10. He has no criminal history. *Id.* ¶ 9.

57. On June 16, 2025, Mr. Morales-Tunubala attended an office appointment as scheduled. *Id.* ¶ 6. His assigned officer contacted him beforehand to inform him that he should

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bring his passport to the appointment, where ICE would take his ankle monitor off. *Id.* When he presented himself as requested, he was re-detained. *Id.* The officers did not allege that he had missed any check-ins or violated any part of his parole—they only told him that he needed to see an immigration judge and lacked documents to be in the United States. *Id.*

58. Mr. Morales-Tunubala was eventually transferred to the NWIPC in Tacoma, Washington, where he remains. *Id.* ¶ 7.

59. On September 11, 2025, an immigration judge denied Mr. Morales-Tunubala's asylum application and granted him voluntary departure. *Id.* ¶ 8. Still afraid for his safety, Mr. Morales-Tunubala appealed this decision and now has a pending appeal before the BIA. *Id.*

60. Prior to Mr. Morales-Tunubala's re-arrest in June 2025, he did not receive written notice of the reason for his re-detention.

61. Prior to Mr. Morales-Tunubala's re-arrest, ICE did not assess whether he presented a flight risk or danger to the community.

62. Prior to Mr. Morales-Tunubala's re-arrest, he was not afforded a hearing before a neutral decisionmaker to determine if his re-detention was justified.

LEGAL FRAMEWORK

63. Due process requires that if DHS seeks to re-arrest a person like Mr. Caiza Aucatoma, Mr. Kayumba, or Mr. Morales-Tunubala—individuals who were released for removal proceedings and awaiting pending application for relief, had lived in the United States without major incident after their initial releases, and had otherwise complied with the steps of their immigration processes—the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention is justified because the person is a flight risk or danger to the community.

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64. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this is the "the most elemental of liberty interests." *E.A. T.-B.*, 795 F. Supp. 3d at 1321 (citation modified); *see also Ramirez Tesara*, 800 F. Supp. 3d at 1136 (stating that the petitioner had "an exceptionally strong interest in freedom from physical confinement").

65. 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).

66. 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.*

67. 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).

68. 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

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parolee has committed . . . a violation of parole conditions" and that such determination be made "by someone not directly involved in the case" (citation modified)).

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

70. 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 initially applied, a person's re-detention could not occur absent a hearing. The Court did the same in *Ramirez Tesara*, *Kumar*, *Ledesma Gonzalez*, and several other cases since those decisions. *See Ramirez Tesara*, 800 F. Supp. at 1136–37; *Kumar*, 2025 WL 2677089, at *2–3; *Ledesma Gonzalez*, 808 F. Supp. 3d at 1196, 1201–03.

71. 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," 795 F. Supp. 3d at 1321, 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 1322–23. 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 1324. As a result, this Court ordered the petitioner's immediate release. *Id.*

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72. This Court applied a similar analysis in *Ramirez Tesara*. In granting the petitioner's motion for a temporary restraining order, 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." 800 F. Supp. 3d at 1136. 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 1137 (quoting *E.A. T.-B.*, 795 F. Supp. 3d at 1322). 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 1138.

73. This Court has repeatedly reached the same conclusion in a series of cases since *E.A. T.-B.* and *Ramirez Tesara*. *See, e.g.*, *Kumar*, 2025 WL 2677089, at *3–4; *Ledesma Gonzalez*, 808 F. Supp. 3d at 1201–04; *Y.M.M.*, 2025 WL 3101782, at *2; *P.T.*, 2025 WL 3294988, at *2–4; *Francois*, 2025 WL 3496557, at *3–4; *Cabrera Perez*, 2026 WL 100735, at *5–6; *Ramirez Tesara v. Wamsley*, No. C25-1723-KKE-TLF, 2025 WL 3288295 (W.D. Wash. Nov. 25, 2025) (granting writ of habeas corpus); *Tomas Manuel*, 2025 WL 3690778, at *3–4, *R&R adopted*, 2025 WL 3697277; *Tsyamba*, 2026 WL 237514, at *4–6; *Shinwari*, 2026 WL 262605, at *3–4; *Arroyo Silva*, 2026 WL 445003, at *4–5; *Arrioja Blanco*, 2026 WL 548056, at *3–4; *Espinoza Palacios*, 2026 WL 686138, at *6–9; *Caisa Telenchana*, 2026 WL 696806, at *10–12; *Colina Castro*, 2026 WL 817388, at *5 (explaining that where"[t]here is no indication in the record that these factors [of flight risk or danger to the community] were considered prior to Petitioners' re-detention . . . Petitioners' arrests were, for lack of a better term, arbitrary").

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74. This Court's decisions are consistent with many other district court decisions addressing similar situations. *See, e.g.*, *Valdez v. Joyce*, 803 F. Supp. 3d 213 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem*, 792 F. Supp. 3d 1025 (N.D. Cal. 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). The same framework and principles apply here and compel the immediate release of all Petitioners.

75. In ordering the immediate release of similarly situated petitioners, courts have also enjoined the government from re-detaining them without providing constitutionally adequate procedures. *See, e.g.*, *Ramirez Tesara*, 2025 WL 3288295, at *6 (ordering that the petitioner "cannot be re-detained until after a hearing (with adequate notice) on his alleged parole violations"); *P.T.*, 2025 WL 3294988, at *4 (ordering that government could not re-detain the petitioner absent "a hearing . . . (with adequate notice) to determine whether detention is appropriate"); *Francois*, 2025 WL 3496557, at *4 (similar); *Cabrera Perez*, 2026 WL 100735, at *6 (similar); *Shinwari*, 2026 WL 262605, at *4 (similar); *Sarwari*, 2026 WL 279968, at *8 (similar); *Arroyo Silva*, 2026 WL 445003, at *7 (similar); *Arrioja Blanco*, 2026 WL 548056, at *4 (similar); *Ortiz*, 2026 WL 607672, at *7 (similar); *Espinoza Palacios*, 2026 WL 686138, at *11; *Caisa Telenchana*, 2026 WL 696806, at *15 (similar); *Colina Castro*, 2026 WL 817388, at *7 (similar).

76. This Court has recognized that such an injunctive remedy is squarely within its habeas authority to "fashion appropriate relief other than immediate release." *Arroyo Silva*, 2026 WL 445003, at *6 (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 487 (1973)). The Court has further explained that "[w]here a petitioner demonstrates a cognizable danger of repeated

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unlawful detention, permanent injunctive relief falls within the breadth and flexibility inherent in habeas equitable powers." *Id.* (citing *Cummings v. Connell*, 316 F.3d 886, 897 (9th Cir. 2003)).

77. Petitioners satisfy the test for issuing permanent injunctive relief under *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006). Under *eBay*, a party "seeking a permanent injunction must demonstrate (1) that he has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." 547 U.S. at 391.

78. Here, an order prohibiting Petitioners' re-detention without notice and a hearing is warranted because Petitioners, if released, will remain subject to similar conditions and are likely to face arbitrary re-detention again. *See Nielsen v. Preap*, 586 U.S. 392, 403 (2019) (explaining that a live controversy remained where permanent injunctive relief had not been entered because the detained "individuals faced the threat of re-arrest and mandatory detention" absent such relief); *see also supra* ¶ 5 (collecting non-exhaustive list of orders from this District finding that Respondents re-detained individuals without adequate notice and pre-deprivation hearing in over 60 instances); *supra* ¶¶ 8–9 (demonstrating that Respondents have continued re-detaining individuals without such procedural safeguards for nearly seven months since first receiving notice that this practice fails to comport with due process); *Ortiz*, 2026 WL 607672, at *5 ("[T]he Court finds that Petitioner's circumstances, in conjunction with the history of habeas orders in this District (and, indeed, nationwide), support Petitioner's assertion that there exists some cognizable danger of recurrent violation, and not simply a mere possibility his rights could be violated in a similar way yet again.").

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79. Recognizing this point, in *Espinoza Palacios* and *Ortiz*, this Court specifically applied the *eBay* factors to issue permanent injunctive relief. First, the Court found that individuals who were already unconstitutionally detained without process had suffered irreparable harm that was "likely to continue or recur absent injunctive relief to protect against further constitutional violations." *Espinoza Palacios,* 2026 WL 686138, at *10; *see also Ortiz*, 2026 WL 607672, at *6 ("It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury." (quoting *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017))); *Caballero Madero v. Hermosillo*, No. C26-0568JLR, 2026 WL 891355, at *4 (W.D. Wash. Apr. 1, 2026) ("Despite this court's many orders holding that the Government's conduct in revoking parole and re-detaining noncitizens without due process is unconstitutional, the conduct has continued."); *Barraza Laguna v. Hernandez*, No. 2:26-cv-00864-GJL, 2026 WL 962127, at *9 (Apr. 9, 2026) ("Petitioners allege, and the record supports, a clear pattern of re-detention without sufficient process by Respondents, demonstrating that Petitioners face a continuing threat of similar harm throughout their removal proceedings. . . This pattern demonstrates a continuing risk of constitutional harm, the recurrence of which is not speculative."). As detailed above, this is particularly true because in this district alone, Respondents have continued to unlawfully detain hundreds of people like Petitioners for months in the face of established caselaw demonstrating such detentions are unlawful.

80. Second and third, the Court explained that "monetary damages are inadequate to remedy the deprivation of liberty . . . and requiring the Government to follow constitutional procedures imposes no undue hardship." *Espinoza Palacios*, 2026 WL 686138, at *10. Fourth, "the public interest favors compliance with the law." *Id.* On this last factor, the *Ortiz* court similarly reasoned that "despite multiple court orders releasing petitioners for being re-detained

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in violation of due process," "Respondents' re-detention procedures [have violated] the rights of many other similarly situat[ed] petitioners in this District." 2026 WL 607672, at *6. "Ordering Respondents to not re-detain noncitizens without due process does not create a disservice to the greater public; in fact, it reinforces constitutional rights." *Id.* (citations omitted).

81. The same logic applies here, where Petitioners have suffered similar irreparable harm, have endured a constitutional violation that would not be remedied by monetary damages, and request an injunctive remedy that merely requires Respondents to adhere to the law in the future.

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

82. Petitioners restate and reallege all the prior paragraphs as if fully set forth herein.

83. Due process does not permit the government to re-detain Petitioners and strip them of their 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.

84. Respondents revoked Petitioners' releases and deprived them of liberty without providing written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to their re-detention.

85. Accordingly, Petitioners' re-detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

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(1) Assume jurisdiction over this matter;

(2) Issue a standard order as provided for by General Order No. 10-25 of this Court;

(3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioners from custody immediately and permanently enjoining their re-detention during the pendency of their removal proceedings absent written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that each Petitioner is a flight risk or danger to the community and that no alternatives to detention would mitigate those risks;

(4) Order that upon Petitioners' release, Respondents must return to Petitioners any personal property, including personal identification documents (other than a passport) and employment authorization documents (EADs);

(5) Declare that the re-detention of Petitioners while removal proceedings are ongoing without first providing an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;

(6) Award Petitioners attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

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

Respectfully submitted this 13th day of April, 2026.

s/ Matt Adams
Matt Adams, WSBA No. 28287
matt@nwirp.org

s/ Leila Kang
Leila Kang, WSBA No. 48048
leila@nwirp.org

s/ Glenda M. Aldana Madrid
Glenda M. Aldana Madrid,
WSBA No. 46987
glenda@nwirp.org

s/ Aaron Korthuis
Aaron Korthuis, WSBA No. 53974
aaron@nwirp.org

s/ Amanda Ng
Amanda Ng, WSBA No. 57181
amanda@nwirp.org

NORTHWEST IMMIGRANT RIGHTS PROJECT
615 Second Ave., Suite 400
Seattle, WA 98104
(206) 957-8611

Counsel for Petitioners