DETAINED

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Attorneys for Petitioner

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

SAFIULIN, Takhir, an adult,

Petitioner,

v.

JULIO HERNANDEZ, Seattle Acting Field Office Director, Enforcement and Removal Operations, David VENTURELLA, Acting Director, U.S. Immigration and Customs Enforcement (ICE); Bruce SCOTT, Warden, Northwest ICE Processing Center; Markwayne MULLIN, Secretary, United States Department of Homeland Security; Todd BLANCHE, U.S. Attorney General; UNITED STATES DEPARTMENT OF HOMELAND SECURITY,

Respondents.

Case No.: 2:26-cv-02701

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

Agency File Number: [redacted]

Expedited Hearing Requested

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I. INTRODUCTION

Petitioner Takhir Safiulin, a 57-year-old native and citizen of Russia, petitions this Court for a Writ of Habeas Corpus under 28 U.S.C. § 2241 to remedy his unlawful and arbitrary re-detention by U.S. Immigration and Customs Enforcement (ICE). After more than four years of strict compliance with the conditions of his 2022 release, which was originally granted due to his heightened medical vulnerabilities (*see* Catala Decl., Ex. A), ICE abruptly re-detained Mr. Safiulin during a routine administrative check-in. ICE effected this deprivation of liberty without providing advance written notice or an opportunity to be heard before a neutral decisionmaker, acting in violation of the Fifth Amendment's Due Process Clause and a consistent line of recent decisions in the Western District of Washington.

Mr. Safiulin's re-detention is legally and factually baseless. He is not subject to a final order of removal, as his immigration proceedings remain active with a timely appeal pending before the Board of Immigration Appeals (BIA). *See* Catala Decl., Ex. E. Furthermore, any reliance by ICE on a 2024 minor misdemeanor arrest for a $20 misunderstanding in Florida cannot supply a mandatory-detention basis, as Mr. Safiulin completed a diversion program and those charges were officially terminated and dismissed (*nolle prosequi*) on January 30, 2025. *See* Catala Decl., Ex. D. Because Mr. Safiulin was unlawfully re-detained without the constitutionally mandated pre-deprivation process, his detention was void from its inception. As courts in this District have repeatedly held, a post-deprivation bond hearing is an inadequate procedural safeguard because it fails to address an erroneous deprivation of liberty that has already occurred.

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Accordingly, like the petitioners in *Rodriguez v. Hermosillo*, No. C26-282-SKV (W.D. Wash. Feb. 27, 2026); *Yu v. Hernandez*, No. 2:26-cv-01372-DGE (W.D. Wash. May 22, 2026); *Pablo v. ICE Field Office Director*, No. 2:26-cv-01197-JHC (W.D. Wash. July 21, 2026); *Singh v. Mullin*, No. 2:26-cv-01741-BAT (W.D. Wash. June 9, 2026); and *Radillo v. Scott*, No. 2:26-cv-02357-JHC (W.D. Wash. July 28, 2026), Mr. Safiulin respectfully requests that this Court restore the *status quo ante* and order his immediate release under his prior conditions.

II. JURISDICTION AND VENUE

This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. §§ 2241(c)(3) and 1331 because Petitioner is in federal custody and challenges the legality of that custody under the Constitution and laws of the United States.

Jurisdiction is also proper under Article III of the United States Constitution and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, which preserves the writ of habeas corpus to challenge unlawful executive detention.

This Petition challenges only the legality of Petitioner's civil immigration detention and re-detention, not the validity of any removal order. Accordingly, the jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not divest this Court of jurisdiction to adjudicate Petitioner's statutory and constitutional claims arising from his detention under 28 U.S.C. § 2241. Petitioner's appeal before the BIA remains pending, and he is therefore not subject to a final order of removal.

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Venue is proper in this District under 28 U.S.C. §§ 1391(e) and 2241(a) because Petitioner is confined at the Northwest ICE Processing Center in Tacoma, Washington, within the Western District of Washington, and Respondents exercise custody over Petitioner within this District.

III. HABEAS AUTHORITY AND RELIEF UNDER 28 U.S.C. §§ 2241 AND 2243

Under 28 U.S.C. § 2241(c)(3), habeas relief is available where a person "is in custody in violation of the Constitution or laws or treaties of the United States." Once such a violation is established, 28 U.S.C. § 2243 directs the Court to "dispose of the matter as law and justice require" and affords broad authority to fashion appropriate relief. *See Lujan v. Garcia*, 734 F.3d 917, 933 (9th Cir. 2013).

The writ of habeas corpus is intended to provide a "swift and imperative remedy in all cases of illegal restraint or confinement." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Consistent with that purpose, recent decisions from this District hold that when re-detention violates due process because the Government failed to provide constitutionally required pre-deprivation process, immediate release restoring the *status quo ante*, not a post-deprivation bond hearing, is the appropriate habeas remedy. *See Radillo v. Scott*, No. 2:26-cv-02357-JHC, slip op. at 7–8 (W.D. Wash. July 28, 2026); *Singh v. Mullin*, No. 2:26-cv-01741-BAT, slip op. at 3 (W.D. Wash. June 9, 2026).

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IV. PARTIES

1. Petitioner Takhir Safiulin is a 57-year-old native and citizen of Russia who resides in Fife, Washington. He is currently detained by ICE at the Northwest ICE Processing Center in Tacoma, Washington.

2. Respondent Julio Hernandez is the Acting Field Office Director for U.S. Immigration and Customs Enforcement's Seattle Field Office. He is responsible for custody determinations concerning noncitizens within the Seattle Field Office's area of responsibility, including Petitioner, and is sued in his official capacity.

3. Respondent Bruce Scott is the Warden of the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington, where Petitioner is detained. As Warden, Respondent Scott exercises immediate physical custody over Petitioner. He is sued in his official capacity.

4. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). He is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in official capacity.

5. 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.

6. Respondent David Venturella is sued in his official capacity as the Acting Director of U.S. ICE. As Acting Director, he is responsible for the administration and enforcement of the Nation's immigration detention and removal system and exercises supervisory authority over Petitioner's detention.

7. Respondent U.S. DHS is the federal agency that has authority over the actions of ICE.

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V. FACTUAL ALLEGATIONS

Petitioner Takhir Safiulin entered the United States on or about May 3, 2022 seeking protection, and was initially placed in removal proceedings alongside his wife. *See* Catala Decl., Ex. B. Following his initial detention, ICE affirmatively released Petitioner from custody on June 7, 2022, pursuant to a Custody Determination under *Fraihat v. ICE*, 106 Fed. R. Serv. 3d 511 (C.D. Cal. 2020), citing his heightened medical risk factors. *See* Catala Decl., Ex. A.

For more than four years, Petitioner resided peacefully in Washington State, integrated into his community, and complied with all conditions of his release. In September 2024, Petitioner was arrested in Florida and charged with a minor misdemeanor (Petit Theft) related to a $20.03 misunderstanding over food at a travel stop while he was training as a truck driver. Petitioner complied fully with a Deferred Prosecution Program, and the charges were completely dismissed and terminated (*nolle prosequi*) on January 30, 2025. *See* Catala Decl., Ex. D. Petitioner has no criminal convictions.

On February 12, 2025, an Immigration Judge (IJ) granted asylum to Petitioner's wife, but denied Petitioner's derivative application for asylum as a matter of discretion, citing the aforementioned dismissed Florida arrest. *See* Catala Decl., Ex. F.

Crucially, on March 4, 2025, Petitioner timely filed a Notice of Appeal (Form EOIR-26) with the BIA, appealing the IJ's decision. *See* Catala Decl., Ex. E. Consequently, there is no final order of removal against Petitioner, and his immigration proceedings remain ongoing.

Despite his ongoing appeal and strict compliance with his release conditions, ICE agents arrested and re-detained Petitioner when he appeared for a routine administrative check-in. He

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was provided no advance written notice explaining the basis for the revocation of his release, nor was he afforded a pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention was justified.

VI. LEGAL ARGUMENTS

The Due Process Clause of the Fifth Amendment to the United States Constitution guarantees that no person shall be "deprived of life, liberty, or property, without due process of law." *U.S. Const. amend. V.* It is a bedrock, unassailable constitutional principle that these fundamental due process protections extend to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

By taking Petitioner Takhir Safiulin into custody when he appeared for a routine administrative check-in, revoking his release, and detaining him without advance written notice or an opportunity to be heard before a neutral decisionmaker, Respondents violated the Fifth Amendment. A consistent line of recent decisions from this District holds that ICE cannot re-detain a compliant noncitizen who was previously released into the community without providing procedural due process. *See, e.g., Radillo v. Scott*, No. 2:26-cv-02357-JHC, slip op. at 5-6 (W.D. Wash. July 28, 2026) (finding a due process violation where petitioner was arrested and immediately re-detained without notice or opportunity to be heard when appearing for a check-in); *Yu v. Hernandez*, No. 2:26-cv-01372-DGE, slip op. at 16-17 (W.D. Wash. May 22, 2026) (holding re-detention without effectively any pre-detention process is constitutionally deficient); *Singh v. Mullin*, No. 2:26-cv-01741-BAT, slip op. at 2-3 (W.D. Wash. June 9, 2026)

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(finding a due process violation where petitioner appeared for a routine check-in and was detained without notice or a hearing); *Pablo v. ICE Field Office Dir.*, No. 2:26-cv-01197-JHC, slip op. at 8 (W.D. Wash. July 21, 2026) (finding a due process violation where petitioner was arrested without notice or an opportunity to be heard); *Quitio v. Warden, Northwest ICE Processing Ctr.*, No. C26-2118-KKE, slip op. at 7 (W.D. Wash. July 28, 2026) (finding arrest without a hearing violated constitutional right to due process).

An exhaustive analysis of the statutory framework and constitutional constraints governing Petitioner's custody demonstrates that his imprisonment is unlawful from its inception.

A. Petitioner's Detention is Governed by 8 U.S.C. § 1226(a), Not the Mandatory Detention Provisions of § 1225(b).

As a threshold matter, the statutory authority governing Petitioner's custody is central to the analysis. Respondents may attempt to argue that because Petitioner was issued a Notice to Appear (NTA) upon his initial entry on May 4, 2022, designating him as an "arriving alien," he is permanently subjected to mandatory detention as an "applicant for admission" under 8 U.S.C. § 1225(b)(2). *See* Catala Decl., Ex. B. This argument fundamentally fails on both the facts and the law. Courts have routinely rejected the premise that a noncitizen who has been affirmatively released and living in the interior of the United States for years can abruptly be subjected to mandatory detention under § 1225(b).

First, the Supreme Court has drawn a clear and vital distinction between these detention statutes: Section 1225 applies primarily to noncitizens "seeking entry into the United States," whereas Section 1226 governs the "process of arresting and detaining" noncitizens who are

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"already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 288-89 (2018). Applying this exact distinction to a petitioner who was detained during an ICE reporting appointment, the Western District of Washington recently held in *Aslan v. Wamsley* that when a noncitizen residing in the United States under a release order is arrested while appearing for a routine ICE check-in, that appearance is "an act of compliance, not an attempt to gain admission." No. 2:25-cv-02698-JNW, slip op. at 4 (W.D. Wash. Jan. 29, 2026) (quoting *Rodriguez Vazquez v. Bostock*). The court in *Aslan* conclusively held: "Under these circumstances, he falls within Section 1226(a)'s discretionary detention scheme, not Section 1225(b)(2)'s mandatory detention provision." *Id.* Just like the petitioner in *Aslan*, Petitioner Safiulin was summarily taken into custody during a routine check-in, an act of pure compliance after residing in Washington State for more than four years, not an attempt to cross the border.

Furthermore, applying the "arriving alien" mandatory detention framework to Petitioner defies the plain text of the statute. Petitioner was formally evaluated by an ICE Deportation Officer and released from custody on June 7, 2022, pursuant to a *Fraihat v. ICE* custody determination based on his heightened medical vulnerabilities. *See* Catala Decl., Ex. A. Since that release, Petitioner has lived in the interior of the United States for more than four years. As the Western District of Washington recently concluded, expanding the scope of mandatory detention under § 1225(b) to include a noncitizen "previously released with conditions, and who has been living in this country for years" is improper. *See Quitio v. Warden, Nw. ICE Processing Ctr.*, No. C26-2118-KKE, slip op. at 4 (W.D. Wash. July 28, 2026). Furthermore, when an already-resident noncitizen is arrested while appearing for a scheduled ICE check-in, it is "an act of compliance, not an attempt to gain admission". *Aslan v. Wamsley*, No. 2:25-cv-02698-JNW,

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slip op. at 3-4 (W.D. Wash. Jan. 29, 2026) (quoting *Rodriguez Vazquez v. Bostock*). "Under these circumstances, he falls within Section 1226(a)'s discretionary detention scheme, not Section 1225(b)(2)'s mandatory detention provision".

Additionally, subjecting Petitioner to mandatory detention now would violate his severe reliance interests on the government's own release order and would be fundamentally unfair. As this District has recognized, the government's decision to release an individual creates an "implicit promise" that they will only be re-detained if they violate the conditions of their release. *See Radillo v. Scott*, No. 2:26-cv-02357-JHC, slip op. at 4 (W.D. Wash. July 28, 2026) (quoting *Pablo Sequen v. Albarran*). When the government "acquiesce[s] in his continued liberty" for years, allowing a noncitizen to comply with the rules and establish deep community ties, that reliance creates a constitutionally protected liberty interest "that cannot be extinguished without due process". *See Yu v. Hernandez*, No. 2:26-cv-01372-DGE, slip op. at 14 (W.D. Wash. May 22, 2026) (quoting *A.B.J.C. v. Hermosillo*, No. 2:26-cv-00185-JNW (W.D. Wash. Feb. 23, 2026)).

Finally, Petitioner's timely Notice of Appeal to the BIA on March 4, 2025, confirms that he is not subject to a final order of removal. *See* Catala Decl., Ex. E. Because his removal order is not administratively final, his detention cannot be justified under the post-removal-period statute, 8 U.S.C. § 1231. *See Singh v. Mullin*, No. 2:26-cv-01741-BAT, slip op. at 2 (W.D. Wash. June 9, 2026).

Therefore, this Court must look to the pre-final-order detention statutes. As established above, because Petitioner was affirmatively released into the interior of the United States where he resided for more than four years, he cannot be classified as an 'arriving alien' subject to

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mandatory detention under § 1225(b). *See Aslan v. Wamsley*, No. 2:25-cv-02698-JNW, slip op. at 3-4 (W.D. Wash. Jan. 29, 2026). Because the mandatory detention provisions of § 1225(b) do not apply to an already-resident noncitizen, and because the post-removal provisions of § 1231 do not apply to a noncitizen with an actively pending BIA appeal, Section 1226(a), and its robust constitutional due process protections, exclusively governs Petitioner's custody.

B. Petitioner is Not Subject to Mandatory Detention Under the Laken Riley Act Amendments to 8 U.S.C. § 1226(c).

Respondents may attempt to argue that Petitioner is subject to mandatory detention without bond under 8 U.S.C. § 1226(c)(1)(E), as recently amended by the Laken Riley Act (LRA), due to his September 2024 arrest for Petit Theft in Florida. Any such argument fails as a matter of law.

The LRA mandates detention for certain noncitizens who "is charged with" or "is arrested for" enumerated offenses, including theft. 8 U.S.C. § 1226(c)(1)(E)(ii). However, this District has explicitly established that the applicability of the LRA is governed by "the facts that existed at the time of detention," and that the dismissal of a predicate charge completely eliminates the government's authority to impose mandatory detention. *See Calderon v. Noem*, No. 2:25-cv-2136-LK-TLF, slip op. at 13 n.3, 15 (W.D. Wash. Dec. 29, 2025) (concluding that "[o]nce the charges were dropped... he was not a person who 'is charged with' one of the enumerated offenses"); *see also Calderon v. Noem*, No. 2:26-cv-00352-BAT, slip op. at 8-9 (W.D. Wash. Feb. 24, 2026) (holding that the dismissal of a theft charge "removes Petitioner from the category of noncitizens who must be mandatorily detained").

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Here, Petitioner's minor Florida charge was completely "TERMINATED AND DISMISSED" on January 30, 2025, via a Notice of Nolle Prosequi, following his successful completion of a diversion program. Unlike the petitioner in *Calderon*, whose charges were actively pending at the time of his ICE arrest, the charges against Petitioner Safiulin were dismissed nearly eighteen months *before* ICE abruptly re-detained him in July 2026. Therefore, under the logic of this District, he was decidedly not subject to mandatory detention under the LRA at the time of his arrest. Consequently, the LRA does not apply to Petitioner, the Government possessed no statutory excuse to bypass his due process protections, and his detention remains firmly governed by the discretionary framework of 8 U.S.C. § 1226(a).

C. Procedural Due Process Imposes Strict Constraints on Re-Detention Decisions.

"Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause". *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). The fundamental requirement of due process is the "opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Id.* at 333. To evaluate whether a governmental action comports with these constitutional guarantees in the immigration detention context, Courts in this District have repeatedly applied the traditional three-part *Mathews* test to challenges involving immigration re-detention, which "can and must account for the heightened governmental interest in the immigration detention context." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022).

The *Mathews* test requires courts to carefully weigh: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through

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the procedures used; and (3) the Government's interest, including the administrative burdens of substitute procedural requirements. *Mathews*, 424 U.S. at 335. A systematic application of these factors to Petitioner's case reveals an indefensible violation of his constitutional rights.

D. Application of the Mathews v. Eldridge Factors Overwhelmingly Favors Petitioner.

1. Mathews Factor One: Petitioner Possesses a Paramount Liberty Interest in His Continued Freedom That is Undiminished by a Dismissed Misdemeanor.

The Supreme Court has forcefully declared that freedom from physical imprisonment "is the most elemental of liberty interests". *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). When the government released Petitioner in 2022, it created an "implicit promise" that he would only be re-detained if he violated the conditions of his release. *Radillo v. Scott, No.* 2:26-cv-02357-JHC, slip op. at 4 (W.D. Wash. July 28, 2026) (quoting *Pablo Sequen v. Albarran,* 806 F. Supp. 3d 1069, 1082 (N.D. Cal. 2025)). Petitioner was free for more than four years, allowing him to gain a foothold, secure stable employment, and develop deeply rooted ties in his community alongside his wife of twenty-five years. As the court noted in *Radillo*, arbitrarily revoking this release inflicts a "grievous loss" of a core private interest protected by the Due Process Clause. *Id.* at 5 (citing *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)).

The government frequently attempts to argue that a noncitizen's liberty interest is "diminished" if they have had an encounter with the criminal justice system. Courts in this District firmly reject this premise. There is "no correlation between one's past criminal history and one's current interest in freedom". *Pablo v. ICE Field Office Dir.*, No. 2:26-cv-01197-JHC,

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slip op. at 6 (W.D. Wash. July 21, 2026) (quoting *Gomez-Lopez v. Hernandez*). In *Pablo*, the court found that the petitioner maintained a paramount liberty interest despite an actual conviction for reckless driving and active, pending charges for DUI. *Id.* at 2-3, 6. Similarly, in *Quitio v. Warden*, No. C26-2118-KKE, slip op. at 2 (W.D. Wash. July 28, 2026), the petitioner possessed a strong, undiminished liberty interest despite a recent conviction and 45-day jail sentence for misdemeanor assault.

By comparison, Petitioner Safiulin has zero criminal convictions. His only encounter with law enforcement involved a misunderstanding over $20.03 worth of fast food at a travel stop. Upon his perfect compliance, the State officially filed a Notice of Nolle Prosequi on January 30, 2025, declaring the charge "TERMINATED AND DISMISSED". If petitioners facing active DUI convictions and domestic assault sentences retain an undiminished constitutional right to freedom, Petitioner indisputably possesses a paramount, fully protected liberty interest. The first *Mathews* factor weighs conclusively in Petitioner's favor.

2. Mathews Factor Two: ICE's Complete Deprivation of Process Created a Massive Risk of Erroneous Deprivation.

The second *Mathews* factor examines the risk of erroneous deprivation through the procedures used. In this case, the risk of an erroneous deprivation of liberty is absolute because ICE utilized zero procedures. Petitioner appeared for a routine check-in and was summarily imprisoned without advance written notice, a statement of allegations, or an opportunity to be heard before a neutral decisionmaker. As the court explained in *Radillo v. Scott,* No. 2:26-cv-02357-JHC, slip op. at 6 (W.D. Wash. July 28, 2026) (quoting *Gill v. Noem,* 2026 WL

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686134, at *3 (W.D. Wash. Mar. 11, 2026)), "the central issue here is the process by which re-detention occurred, not whether it was warranted." Relatedly, that the government believes it has a valid reason to detain does not eliminate its due process obligations. See *Pablo v. ICE Field Office Dir.*, No. 2:26-cv-01197-JHC, slip op. at 9 (W.D. Wash. July 21, 2026) (quoting *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322 (W.D. Wash. 2025)).

Furthermore, as the court held in *Yu v. Hernandez*, No. 2:26-cv-01372-DGE, slip op. at 15 (W.D. Wash. May 22, 2026), "if ICE has apprehended a noncitizen and placed [him] in removal proceedings without detaining [him], it has necessarily already determined that the noncitizen is neither a flight risk nor a threat to the public". In this case, ICE provided no advance written notice or statement of allegations, leaving Petitioner to merely guess the basis for his sudden imprisonment. As this Court noted in a remarkably similar situation in *Radillo v. Scott*, it may "seem[] as if the criminal charge might have been a reason for the re-detention," but the utter lack of notice inherently creates a massive risk of erroneous deprivation because the petitioner cannot know the charges against him. If ICE's unstated basis was Petitioner's Florida charge, re-detaining a compliant noncitizen over a minor, formally dismissed charge mirrors the "pretextual" arrests explicitly condemned in *Pablo v. ICE Field Office Dir.*, No. 2:26-cv-01197-JHC, slip op. at 8-9, where the court noted that utilizing a minor offense as a basis for sudden re-detention "appears to be pretext for the arrest and detention".

Crucially, the total deprivation of process here created an extreme risk of erroneous deprivation precisely because Petitioner's criminal charges were already dismissed. In *Calderon v. Noem*, this District recently held that bypassing a pre-detention hearing did not create a risk of erroneous deprivation for a noncitizen whose criminal charges were actively pending at the time

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of his ICE arrest, reasoning that a hearing at that exact moment "could have had only one outcome: detention" under the Laken Riley Act. No. 2:25-cv-2136-LK-TLF, slip op. at 14 (W.D. Wash. Dec. 29, 2025). However, because Petitioner Safiulin's charges were officially dismissed nearly eighteen months *before* his ICE arrest, the LRA did not apply to him. Therefore, a pre-deprivation hearing would have decisively prevented his mandatory detention. By completely bypassing this neutral hearing, ICE stripped Petitioner of his ability to present his records showing that the charge had been terminated and dismissed (*nolle prosequi*), virtually guaranteeing the erroneous deprivation of his liberty. The second *Mathews* factor overwhelmingly favors Petitioner.

3. Mathews Factor Three: The Government Has No Legitimate Interest in Re-Detaining Compliant Noncitizens Without a Hearing.

The third *Mathews* factor contemplates the Government's interest and the administrative burdens of providing substitute procedural requirements. While the Court acknowledges the government's generalized interest in ensuring noncitizens appear for proceedings, its specific interest in detaining an individual *without first providing a hearing* is incredibly low.

Although affording notice and a hearing requires the expenditure of finite administrative resources, "those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue". As noted in *Rodriguez v. Hermosillo*, No. C26-282-SKV, slip op. at 11 (W.D. Wash. Feb. 27, 2026), "If the government wishes to re-arrest [a noncitizen] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low".

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Furthermore, Respondents cannot claim a legitimate governmental interest in enforcing the Laken Riley Act (LRA) to bypass procedural safeguards. While this District has recognized that the government may have an interest in enforcing the LRA to bypass a hearing when the statute actually applies to a noncitizen at the time of their arrest, that interest completely evaporates when the predicate charges have already been dismissed. *See Calderon v. Noem*, No. 2:25-cv-2136-LK-TLF, slip op. at 14 (W.D. Wash. Dec. 29, 2025) (basing the government's interest strictly on "the undisputed applicability of the LRA to Mr. Calderon at the time of his detention"). Because Petitioner's charges were dismissed long before his arrest, the LRA did not apply to him, and the Government possessed no statutory mandate or legitimate interest that would support his specific detention without a pre-deprivation hearing. Because Petitioner voluntarily appeared at his check-in, possesses no criminal convictions, and the present record contains no evidence that he poses a current danger to the community, there is no exigent circumstance justifying the total bypass of his constitutional rights. The third *Mathews* factor heavily favors Petitioner.

E. The Only Constitutionally Adequate and Practical Remedy is Immediate Release to the *Status Quo Ante*, Not a Post-Deprivation Bond Hearing.

Because all three *Mathews* factors conclusively dictate that Petitioner's re-detention was unconstitutional from its inception, immediate release restoring the *status quo ante* is the only appropriate remedy. Respondents may attempt to argue that the Court should merely order an immigration judge to conduct a post-deprivation bond hearing, but this Court must reject that inadequate and futile remedy.

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Calderon II does not compel a different result. There, the Laken Riley Act undisputedly applied when Calderon was re-detained because his theft charge remained pending at that time. The court therefore adhered to the prior determination that his initial re-detention was not unconstitutional and ordered a bond hearing only after the charge was later dismissed. Here, by contrast, Petitioner's predicate charge had been terminated and dismissed long before ICE re-detained him. No mandatory-detention provision dictated the outcome on July 23, 2026, and the absence of pre-deprivation process exposed Petitioner to precisely the erroneous deprivation that occurred. *See Calderon v. Noem*, No. 2:26-cv-00352-BAT, slip op. at 8–9 (W.D. Wash. Feb. 24, 2026).

Furthermore, an ordinary administrative bond hearing is practically futile here. Because DHS designated Petitioner as an "arriving alien" on his May 4, 2022 Notice to Appear, 8 C.F.R. § 1003.19(h)(2)(i)(B) ordinarily deprives the Immigration Court of jurisdiction to redetermine his custody. As the record in recent Western District of Washington cases demonstrates, when petitioners with similar "arriving alien" designations seek bond, the Tacoma Immigration Court has denied in materially similar cases the requests for lack of jurisdiction. *See Yu v. Hernandez*, No. 2:26-cv-01372-DGE, slip op. at 6 (W.D. Wash. May 22, 2026); *Rodriguez v. Hermosillo*, No. C26-282-SKV, slip op. at 3 (W.D. Wash. Feb. 27, 2026). Ordering a conventional bond hearing would merely leave Petitioner trapped in custody while the Immigration Court concludes it lacks authority to grant relief.

Finally, even if the Immigration Court possessed jurisdiction, a post-deprivation bond hearing is constitutionally inadequate. As the court firmly concluded in *Singh v. Mullin*, No. 2:26-cv-01741-BAT, slip op. at 3 (W.D. Wash. June 9, 2026), a post-deprivation bond hearing is

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"an inadequate procedural safeguard because it would occur only after detention and thus fails to address an erroneous deprivation of liberty". As held in *Radillo v. Scott*, No. 2:26-cv-02357-JHC, slip op. at 8 (W.D. Wash. July 28, 2026), ordering a bond hearing while the petitioner remains unlawfully detained "would not adequately vindicate his rights; it would reward the government for detaining first and asking questions later".

In *Yu v. Hernandez*, No. 2:26-cv-01372-DGE, slip op. at 17-18 (W.D. Wash. May 22, 2026), the Court reconsidered the approach taken in *Garcia Gabriel* and concluded that a post-deprivation bond hearing would not adequately remedy the failure to provide a pre-deprivation process. The court in *Yu* firmly established that the government cannot erase a noncitizen's due process protections to limit relief to a bond hearing. Because the constitutional violation here was the total absence of pre-deprivation process, the only proper remedy is to restore the *status quo ante* by immediately returning Petitioner to the conditions of release that existed before his unlawful detention.

VIII. CLAIMS FOR RELIEF

CLAIM ONE: Violation of the Fifth Amendment to the U.S. Constitution - Procedural Due Process

Petitioner realleges and incorporates the preceding allegations.

ICE conducted an individualized custody review and affirmatively released Petitioner from detention on June 7, 2022. For more than four years thereafter, Petitioner lived openly in Washington State, remained continuously available to immigration authorities, appeared for his

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scheduled immigration proceedings and ICE reporting appointments, and established substantial family, employment, and community ties.

On July 23, 2026, Petitioner appeared for a routine ICE check-in as instructed. Respondents took him into custody and revoked his release without advance written notice of the grounds for re-detention, without identifying any condition of release he had allegedly violated, and without affording him an opportunity to contest the deprivation before a neutral decisionmaker.

Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner's substantial interest in continued liberty, the acute risk of error created by the complete absence of pre-deprivation process, and the comparatively minimal burden associated with providing notice and a neutral hearing establish that constitutionally adequate process was required before his release could be revoked. *See Radillo v. Scott*, No. 2:26-cv-02357-JHC (W.D. Wash. July 28, 2026); *Singh v. Mullin*, No. 2:26-cv-01741-BAT (W.D. Wash. June 9, 2026); *Yu v. Hernandez*, No. 2:26-cv-01372-DGE (W.D. Wash. May 22, 2026).

Because Respondents deprived Petitioner of his liberty without the constitutionally required pre-deprivation protections, his re-detention was unlawful from its inception and his continuing confinement violates the Due Process Clause of the Fifth Amendment.

CLAIM TWO: Respondents Lack a Lawful Basis to Subject Petitioner to Mandatory Detention Under 8 U.S.C. §§ 1225(b), 1226(c)(1)(E), or 1231

Petitioner realleges and incorporates the preceding allegations.

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Petitioner timely appealed the Immigration Judge's February 12, 2025 decision to the BIA, and that appeal remains pending. His removal order is therefore not administratively final, and his detention is not governed by the post-final-order detention provisions of 8 U.S.C. § 1231.

Nor may Respondents treat Petitioner's July 2026 re-detention as mandatory detention under 8 U.S.C. § 1225(b). ICE affirmatively released Petitioner into the United States in June 2022, and he thereafter resided in the interior of the country for more than four years. His appearance at a scheduled ICE check-in was an act of compliance with the Government's reporting requirements, not an attempt to seek admission at the border. *See Aslan v. Wamsley*, No. 2:25-cv-02698-JNW (W.D. Wash. Jan. 29, 2026).

Furthermore, Respondents lack statutory authority to subject Petitioner to mandatory detention under the Laken Riley Act amendments to 8 U.S.C. § 1226(c)(1)(E). While the statute mandates detention for certain noncitizens who are actively "charged with" or "arrested for" theft, this District has established that the dismissal of a predicate charge "removes Petitioner from the category of noncitizens who must be mandatorily detained". *See Calderon v. Noem*, No. 2:26-cv-00352-BAT, slip op. at 8-9 (W.D. Wash. Feb. 24, 2026). Because Petitioner's minor Florida charge was officially "TERMINATED AND DISMISSED" on January 30, 2025, nearly eighteen months prior to his re-detention, § 1226(c) does not apply.

Petitioner's custody pending completion of his removal proceedings is therefore governed by the discretionary framework of 8 U.S.C. § 1226(a). To the extent Respondents have detained him as subject to mandatory custody under § 1225(b) or § 1226(c), or as subject to

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post-final-order detention under § 1231, that detention exceeds their statutory authority and is contrary to the Immigration and Nationality Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this action;
2. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243 directing Respondents to show cause within three days, or within such other expedited timeframe as the Court deems appropriate, why the Petition should not be granted;
3. During the pendency of this action, prohibit Respondents from transferring Petitioner outside the Western District of Washington in a manner that would defeat or impair this Court's jurisdiction or materially interfere with Petitioner's ability to litigate this action, or, alternatively, require Respondents to provide Petitioner and habeas counsel with at least forty-eight hours' advance written notice of any proposed transfer;
4. Declare that Respondents' revocation of Petitioner's release and re-detention without adequate advance written notice, a meaningful opportunity to be heard, and an individualized determination by a neutral decisionmaker violated the Due Process Clause of the Fifth Amendment;
5. Declare that Petitioner's custody pending adjudication of his BIA appeal is governed by the discretionary framework of 8 U.S.C. § 1226(a), rather than the

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mandatory detention provisions of 8 U.S.C. §§ 1225(b) or 1226(c)(1)(E), or the post-final-order detention provisions of 8 U.S.C. § 1231;

6. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from ICE custody and restore the conditions of release in effect before his July 23, 2026 re-detention;

7. Alternatively, order Petitioner's immediate release under reasonable conditions of supervision pending further order of the Court, including participation in ICE's Alternatives to Detention program, as appropriate;

8. Enjoin Respondents from re-detaining Petitioner based on the circumstances existing at the time of this Petition absent adequate written notice and a pre-deprivation hearing before a neutral decisionmaker, except upon materially changed circumstances or a genuine emergency requiring immediate action;

9. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

10. Grant such other and further relief as the Court deems just and proper.

Dated: 07/31/2026

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