

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Wilmer Enrique QUIVA PALACIO,

Petitioner,

v.

Cammilla WAMSLEY, Seattle Field Office
Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE); Bruce SCOTT,
Warden, Northwest ICE Processing Center;
Kristi NOEM, Secretary, United States
Department of Homeland Security; Pamela
BONDI, United States Attorney General;
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY;

Respondents.

Case No. 2:25-cv-1983

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

INTRODUCTION

1. This case challenges the unlawful re-detention of Wilmer Enrique Quiva Palacio, who fled political persecution in his native Venezuela and entered the United States in 2021 to seek asylum. He was apprehended shortly after his entry but was released on his own recognizance for the purpose of continuing his removal proceedings.

2. In the years since his release, Mr. Quiva has timely filed for asylum, complied with the conditions of his release imposed by Immigration and Customs Enforcement (ICE), attended all required immigration appointments, and been granted employment authorization.

3. On August 8, 2025, Mr. Quiva was delivering Amazon packages on his route near Bellingham, WA, when he was stopped by Customs and Border Protection (CBP) and detained for unspecified and arbitrary reasons.

4. Before re-detaining him on August 8, 2025, Respondents did not provide Mr. Quiva with any written notice explaining the basis for the revocation of his release. Nor did they provide a hearing before a neutral decisionmaker where ICE was required to justify the basis for re-detention or explain why Mr. Quiva is a flight risk or danger to the community.

5. As courts in this district have recently held in multiple cases, due process demands a hearing *prior* to the government's decision to terminate a person's liberty. *See Ledesma Gonzalez v. Bostock*, 2025 WL 2841574 (W.D. Wash. Oct. 7, 2025) (Whitehead, J.); *E.A. T.-B. v. Wamsley*, --- F. Supp. 3d ---, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025) (Evanson, J.); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025) (Pechman, J.); *Kumar v. Wamsley*, 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025) (Chun, J.). Many other courts have recently held the same. By failing to provide such a hearing, Respondents have violated Mr. Quiva's constitutional right to due process.

6. Accordingly, this Court should grant Mr. Quiva’s petition for a writ of habeas corpus and order his immediate release. *See E.A. T.-B.*, 2025 WL 2402130, at *6 (ordering immediate release because “a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty”); *Ramirez Tesara*, 2025 WL 2637663, at *4 (similar); *Kumar*, 2025 WL 2677089, at *3–4 (similar); *Ledesma Gonzalez*, 2025 WL 2841574, at *9 (relying on *E.A. T.-B.*).

JURISDICTION

7. This action arises under the Constitution of the United States, the Immigration and Nationality Act (INA), 8 U.S.C. § 1101, *et seq.*, and the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*

8. 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).

9. 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

10. Venue is proper because Mr. Quiva is in Respondents’ custody at the Northwest ICE Processing Center (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 Mr. Quiva currently is in custody.

11. Venue is also properly 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.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless Petitioner is 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.*

13. 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) (citing *Ruby v. United States*, 341 F.2d 585, 587 (9th Cir. 1965)); *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

14. Wilmer Enrique Quiva Palacio is an adult citizen of Venezuela. He is detained at NWIPC in Tacoma, Washington.

15. Respondent Cammilla Wamsley is the Field Office Director for ICE’s Seattle Field Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States. The Seattle Field Office’s area

1 of responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal
2 custodian of Petitioner and is sued in her official capacity.

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

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

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

12 19. Respondent U.S. Department of Homeland Security is the federal agency that has
13 authority over the actions of ICE.

14 **FACTUAL BACKGROUND**

15 20. Mr. Quiva is a 33-year-old citizen and national of Venezuela.

16 21. He fled Venezuela in 2017 due to persistent threats and attempts against his life
17 by the Venezuelan government. *See* Declaration of Wilmer Enrique Quiva Palacio ("Quiva
18 Decl.") ¶ 1. Although he tried relocating to other South American countries, he ultimately had to
19 flee again due to a lack of immigration status there and because elements allied with the
20 Venezuelan government found him. *Id.*

1 22. Mr. Quiva entered the United States on October 26, 2021, crossing the border
2 near Eagle Pass, TX, to seek asylum. He was apprehended by Border Patrol immediately after
3 his entry. Ex. A.¹

4 23. DHS issued Mr. Quiva a Notice to Appear on or about October 28, 2021,
5 charging him with being a noncitizen present in the United States who has not been admitted or
6 paroled. Pursuant to a Notice of Custody Determination dated the same day, Mr. Quiva was
7 released on his own recognizance. *See* Exs. B, C, D.

8 24. Following his release on recognizance, Mr. Quiva eventually relocated to
9 Washington.

10 25. Mr. Quiva filed a Form I-589 application for asylum within nine months of his
11 arrival in the United States. That asylum application is still pending. He also applied for and was
12 granted Temporary Protected Status (TPS) under the 2023 redesignation for Venezuelan
13 nationals. *See* Quiva Decl. ¶¶ 3, 5. That TPS designation later expired following the change in
14 presidential administration.

15 26. After Mr. Quiva filed his asylum application, he was granted employment
16 authorization so that he could support himself while waiting for the final adjudication of the
17 application. *Id.* ¶ 3.

18 27. In the years that followed, Mr. Quiva complied with the check-in requirements
19 imposed by ICE as part of his release on recognizance. He has no criminal record of any kind in
20 the United States. *Id.* ¶¶ 4–6.

21 28. Since coming to the United States, Mr. Quiva has worked hard to build a life here.
22 He has worked in excavation and as a delivery person for companies like Door Dash, Amazon,
23

¹ All citations to exhibits are to the exhibits included with the declaration of Sydney Maltese.

1 and Spark Driver. He has always filed his tax returns. He has family in the United States,
2 including his brother, who won his own asylum case. *Id.* ¶ 7.

3 29. On August 8, 2025, Mr. Quiva was arrested by CBP while he was delivering
4 Amazon packages. He was initially detained by one officer, but later two more arrived. The CBP
5 officers would not explain why Mr. Quiva was being detained. It was not until he was brought to
6 another location that they explained, in broken Spanish, that he had been arrested because he did
7 not have any immigration status. *Id.* ¶ 8.

8 30. Mr. Quiva has been scheduled for a final hearing in his immigration case at the
9 Tacoma Immigration Court on October 28, 2025. Because he is detained, his case is on a vastly
10 accelerated docket, leaving him very little time to prepare his asylum case and posing a
11 significant difficulty in terms of working with his lawyers and gathering witnesses and evidence,
12 given that he is detained. If this Court grants his release, his immigration case would move to a
13 standard, non-detained docket, where he would have a fuller opportunity of preparing and
14 presenting his case. Quiva Decl. ¶ 10.

15 31. Prior to Mr. Quiva's re-arrest, he did not receive written notice of the reason for
16 his re-detention. Indeed, the evidence filed by DHS in his immigration case consists of nothing
17 but the original Form I-213 from when he was first detained and released in 2021.

18 32. Prior to Mr. Quiva's re-arrest, ICE did not assess whether Mr. Quiva presented a
19 flight risk or danger to the community, or whether his re-arrest was justified for some other
20 reason. In fact, the arrest record provides no basis for Mr. Quiva's re-arrest and states that he has
21 no criminal history.

22 33. Prior to Mr. Quiva's re-detention, he never received a hearing before a neutral
23 decisionmaker to determine if his re-detention is justified.

LEGAL FRAMEWORK

Due Process Principles

34. Due process requires that if DHS seeks to re-arrest a person like Mr. Quiva—who has lived in the United States for years without incident after DHS first released him, and has attended all required immigration check-ins and complied with the terms of his release—the government must afford a hearing before a neutral decisionmaker to determine whether re-detention is justified, and whether the person is a flight risk or danger to the community.

35. “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 one court in this district recently recognized, this is the “the most elemental of liberty interests.” *E.A. T.-B.*, 2025 WL 2402130, at *3 (citation modified); *see also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner had “an exceptionally strong interest in freedom from physical confinement”).

36. 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).

37. 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.*

38. 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

1 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
2 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

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

11 40. Numerous courts, including several courts in this district, have recognized that
12 these principles apply with respect to the re-detention of the many noncitizens that DHS has
13 recently begun taking back into custody, often after such persons have been released for months
14 or years.

15 41. For example, in *E.A. T.-B.*, the court applied the framework from *Mathews v.*
16 *Eldridge*, 424 U.S. 319 (1976), to hold that even in a case where the government asserted that
17 mandatory detention applied, a person’s re-detention could not occur absent a hearing. Judges in
18 this district have done the same in *Ramirez Tesara* and *Kumar*. *See Ramirez Tesara*, 2025 WL
19 2637663, at *2–3; *Kumar*, 2025 WL 2677089, at *2–3. *Ledesma Gonzalez v. Bostock*, 2025 WL
20 2841574, at *7-9.

21 42. In applying the three *Mathews* factors, the *E.A. T.B.* court held that the petitioner
22 had “undoubtedly [been] deprive[d] . . . of an established interest in his liberty,” 2025 WL
23 2402130, at *3, which, as noted, “is the most elemental of liberty interests,” *id.* (citation

1 modified). The court further explained that even if detention was mandatory, the risk of
2 erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure
3 that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.*
4 at *4–5. Finally, the Court explained that “the Government’s interest in re-detaining non-citizens
5 previously released without a hearing is low: although it would have required the expenditure of
6 finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations
7 before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous
8 deprivation of the liberty interest at issue.” *Id.* at *5. As a result, the court ordered the
9 petitioner’s immediate release. *Id.* at *6.

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

19 44. The *Kumar* and *Ledesama Gonzalez* courts reached the same decision, again
20 holding that all three factors weighed in favor of affording the petitioner a bond hearing. 2025
21 WL 2677089, at *3–4; 2025 WL 2841574, at *7-9.

22 45. This district’s decisions in *Ledesama Gonzalez*, *E.A. T.-B.*, *Ramirez Tesara*, and
23 *Kumar* are consistent with many other district court decisions addressing similar situations. *See*,

1 *e.g., Valdez v. Joyce*, 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release
 2 due to lack of pre-deprivation hearing); *Pinchi v. Noem*, -- F. Supp. 3d --, 2025 WL 2084921
 3 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376 (E.D. Cal. Aug. 8,
 4 2025) (similar); *Garcia v. Andrews*, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar);
 5 *Rodriguez v. Kaiser*, 2025 WL 2855193 (E.D. Cal. Oct. 8, 2025), at *6 (similar).

6 46. The same framework and principles apply here and compel Mr. Quiva's
 7 immediate release.

8 **CLAIM FOR RELIEF**
 9 **Violation of Fifth Amendment Right to Due Process**
 10 **Procedural Due Process**

11 47. Mr. Quiva restates and realleges all the prior paragraphs as if fully set forth
 12 herein.

13 48. Due process does not permit the government to re-detain Mr. Quiva and strip him
 14 of his liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker
 15 to determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408
 16 U.S. at 487–88. Such written notice and a hearing must occur *prior* to any re-detention.

17 49. Respondents revoked Mr. Quiva's release and deprived him of liberty without
 18 providing him written notice and a meaningful opportunity to be heard by a neutral
 19 decisionmaker prior to his re-detention.

20 50. Accordingly, Mr. Quiva's re-detention violates the Due Process Clause of the
 21 Fifth Amendment.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Mr. Quiva respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

- 1 (2) Issue an Order to Show Cause ordering Respondents to show cause within three days
2 as to why this Petition should not be granted as required by 28 U.S.C. § 2243;
- 3 (3) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Quiva from
4 custody immediately and permanently enjoining his re-detention during the pendency
5 of his removal proceeding absent written notice and a hearing prior to re-detention
6 where Respondents must prove by clear and convincing evidence that he is a flight
7 risk or danger to the community and that no alternatives to detention would mitigate
8 those risks;
- 9 (4) Declare that Mr. Quiva's re-detention while removal proceedings are ongoing without
10 first providing an individualized determination before a neutral decisionmaker
11 violates the Due Process Clause of the Fifth Amendment;
- 12 (5) Award Mr. Quiva attorney's fees and costs under the Equal Access to Justice Act, and
13 on any other basis justified under law; and
- 14 (6) Grant any further relief this Court deems just and proper.
- 15

16 Dated: October 14, 2025

Respectfully submitted,

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