UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Moises David BONILLA MEJIA,

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, U.S. Attorney General; UNITED STATES DEPARTMENT OF HOMELAND SECURITY,

Respondents.

Case No. _____

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

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INTRODUCTION

1. This case challenges Respondent's imminent unlawful removal and recent re-detention. Petitioner is currently in the physical custody of Respondents at the Northwest Immigration and Customs Enforcement (ICE) Processing Center (NWIPC). Respondents have communicated that Petitioner's removal from the United States is imminent, and may occur at any time, even though he does not have a final order of removal and has not has a full and fair hearing on his application for asylum, withholding, and relief under the Convention Against Torture.

2. Petitioner was apprehended, along with his wife and children, shortly after entering the United States and thereafter released for the purpose of continuing his removal proceedings. In the subsequent months since his release, he filed for asylum, and he is included as a derivative on his wife's asylum application, along with their minor children.

3. Petitioner has fulfilled the conditions of release as set by Immigration and Customs Enforcement (ICE), complied with reporting requirements, applied for asylum, attended removal proceedings, and when once late for his hearing, followed the required administrative steps for review, including timely filing a motion to reopen and rescind proceedings and appealing to the Board of Immigration Appeals (BIA). His case remains pending before the BIA. On information and belief, he has no criminal record in the United States or any other country.

4. Mr. Bonilla and his family arrived *minutes* late for their individual, merits hearing on their fear-based claims, because of: (1) a sick child and childcare difficulties; and (2) severe traffic and travel difficulties due to an international sporting event, and (3) building entry difficulties, due in part to protests and security at the federal building housing the Immigration Court. Nonetheless, the Immigration Judge (IJ), ordered them removed without a hearing on their

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fear-based claims. He denied a motion to rescind and reopen, and Petitioner's appeal of that denial is currently pending before the BIA.

5. Despite Petitioner's compliance while released, including court attendance in removal proceedings, he was abruptly and unlawfully re-detained by the Department of Homeland Security (DHS) on November 3, 2025. Respondents have communicated that they intend to remove Petitioner imminently, even though his case remains pending before the Board and he has not had a full and fair hearing on his asylum claim. The BIA has failed to act on his application for a stay of removal.

6. The INA and due process prohibit the removal of Mr. Bonilla prior to the issuance of a final removal order and the opportunity for a full and fair hearing on his asylum application. Petitioner does not have a final removal order under Ninth Circuit case law, because his appeal of the IJ's denial of his motion to rescind and reopen is pending before the BIA. *See Cui v. Garland*, 13 F.4th 991, 996 (9th Cir. 2021) (an *in absentia* removal order does not become final until the 180 day period to file a motion to reopen runs, or when the BIA makes a decision on appeal of such a motion to reopen); 8 U.S.C. § 1231(a)(1)(B) ("The removal period begins on the latest of the following: … (i) The date the order of removal becomes administratively final."). The INA provides statutory safeguards to ensure that persons in removal proceedings are provided a fair hearing, including having a "reasonable opportunity to examine the evidence against the [noncitizen], to present evidence on the [noncitizen]'s own behalf, and to cross-examine witnesses presented by the Government..." 8 U.S.C. § 1229a(b)(4)(B).

7. On information and belief, prior to re-detaining the Petitioner, Respondents did not provide any written notice explaining the basis for the revocation of his release. Likewise, Respondents did not assess whether Petitioner presented a flight risk or danger to the community

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prior to the re-arrest. Nor did Respondents provide a hearing before a neutral decisionmaker, where ICE was required to justify the basis for re-detention or to explain why Mr. Bonilla is a flight risk or danger to the community.

8. 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.A. T.-B. v. Wamsley*, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13. Many other courts have recently held the same.

9. By failing to provide such a hearing, Respondents have violated Mr. Bonilla's constitutional right to due process.

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

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*.

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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 Petitioner is 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 Petitioner is currently in custody.

15. 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

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 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.*

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

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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 Moises David Bonilla Mejia is an adult citizen of Honduras. He is detained at the NWIPC.

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

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

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

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

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

FACTUAL BACKGROUND

24. Petitioner Moises David Bonilla Mejia entered the United States with his wife and minor children on or about March 29, 2024, and they were apprehended by U.S. Customs and Border Patrol (CBP). The family was released from ICE custody with a Notice to Appear in the Seattle Immigration Court on June 11, 2024.

25. Mr Bonilla and his family were enrolled in the Intensive Supervision Appearance Program (ISAP). To their knowledge, they have complied with all ISAP appointments, both by telephone and in person.

26. Mr. Bonilla and his family submitted I-589 applications for asylum and related relief on October 3, 2024. Mr. Bonilla appeared for all required initial hearings before the Immigration Judge.

27. On June 16, 2025, Mr. Bonilla and his family were scheduled for their individual, merits hearing on their applications for asylum, withholding of removal, and relief under the Convention Against Torture, at the Seattle Immigration Court. However, due to a number of exceptional circumstances, including the illness of one of their children the night before, unexpected lack of childcare, heavy traffic due to the influx of tourists for the FIFA Club World Cup held that week in Seattle, and the presence of community protesters outside the Seattle Immigration Court, the family arrived late to their scheduled hearing. The family asserts that they arrived 12 minutes late to the courtroom – after delays in passing through security – to find the door to the Court closed. When they sought out and talked to the Clerk, they were told they were "too late" and were instructed to file a motion to reopen. The Immigration Judge asserts

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that he started their *in absentia* hearing 16 minutes after the scheduled time and ordered the family removed.

28. On July 18, 2025, Mr. Bonilla and his family timely filed a motion to reopen citing the exceptional circumstances that caused their tardiness and arguing that their brief tardiness should not be considered a failure to appear.

29. On July 29, 2025, the IJ denied the motion to reopen. Mr. Bonilla and his family filed a timely appeal, received by the Board of Immigration Appeals on August 20, 2025, which remains pending as of the date of this petition.

30. On October 31, 2025, Mr. Bonilla and his family filed a motion for a stay of removal to the BIA, which had been previously rejected for technical reasons. The motion for a stay of removal was received at the BIA on November 3, 2025. No decision has yet been made by the BIA.

31. On November 3, 2025, Mr. Bonilla presented himself at the ISAP office at 14220 Interurban Ave S, Tukwila, WA 98168 and was taken into ICE custody. Mr. Bonilla's two minor children, ages 5 and 6, were with him at the time of his arrest.

32. On November 4, 2025, Mr. Bonilla's immigration counsel learned from ICE that Mr. Bonilla was detained at the NWIPC. In response to counsel's inquiry about whether Mr. Bonilla's removal was imminent, a deportation officer responded that there are three flights that leave regularly every week from the NWIPC, and that any legal work needed to be done as soon as possible. Based on this representation, counsel has informed the Board of the imminent risk of removal.

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33. On information and belief, Mr. Bonilla does not have any serious criminal charges on his record. In July 2025, he was stopped for alleged traffic infractions for which prosecutors declined to file charges on July 21, 2025.

34. On information and belief, prior to Mr. Bonilla's re-arrest, Mr. Bonilla did not receive written notice of the reason for his re-detention.

35. Prior to Mr. Bonilla's re-arrest, ICE did not assess whether Mr. Bonilla presented a flight risk or danger to the community, or whether his re-arrest was justified for some other reason.

36. Prior to Mr. Bonilla's re-arrest, Mr. Bonilla was not afforded a hearing before a neutral decisionmaker to determine if his re-detention is justified.

LEGAL FRAMEWORK

Due Process Principles related to re-detention

37. Due process requires that if DHS seeks to re-arrest a person like Mr. Bonilla—individuals who have lived in the United States without incident after DHS first released them, submitted applications for protection from removal, and otherwise complied with the terms of their releases—the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community.

38. "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.*, 2025 WL 2402130, at *3 (citation modified); *see*

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also Ramirez Tesara, 2025 WL 2637663, at *3 (stating that the petitioner had "an exceptionally strong interest in freedom from physical confinement").

39. 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).

40. 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*.

41. 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).

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

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43. 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.

44. 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*, and *Ledesma Gonzalez*. *See Ramirez Tesara*, 2025 WL 2637663, at *2–3; *Kumar*, 2025 WL 2677089, at *2–3; *Ledesma Gonzalez*, 2025 WL 2841574, at *7–8.

45. In applying the three *Mathews* factors, the *E.A. T.-B.* court held that the petitioner had "undoubtedly [been] deprive[d] . . . of an established interest in his liberty," 2025 WL 2402130, at *3, which, as noted, "is the most elemental of liberty interests," *id.* (citation modified). The Court further explained that even if detention was mandatory, the risk of erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure that the purposes of detention—the prevention of danger and flight risk—are properly served. *Id.* at *4–5. Finally, the Court explained that "the Government's interest in re-detaining non-citizens previously released without a hearing is low: although it would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue." *Id.* at *5. As a result, this Court ordered the petitioner's immediate release. *Id.* at *6.

46. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court reasoned that the petitioner had a "weighty" interest in his liberty and was entitled to the "full

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protections of the due process clause." 2025 WL 2637663, at *3. When examining the value of additional safeguards, the Court also noted that despite the government's allegations of ISAP violations, "the fact 'that the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.'" *Id.* at *4 (quoting *E.A. T.-B*, 2025 WL 2402130, at *4). Finally, the Court reasoned that any government interest in re-detention without a hearing was "minimal." *Id.* Accordingly, there too, the Court ordered the petitioner's immediate release. *Id.* at *5.

47. The *Kumar* and *Ledesma Gonzalez* courts reached the same decision, again holding that all three factors weighed in favor of affording the petitioner a bond hearing. 2025 WL 2677089, at *3–4; 2025 WL 2841574, at *7–9; *see also* Report & Recommendation, *Lopez Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13 (same).

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

49. The same framework and principles apply here and compel Petitioner's immediate release.

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CLAIM FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act ("INA")

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

2. By attempting to remove Petitioner before his removal order is final, with no hearing on his asylum claim, Respondents deny Petitioner his right to apply for asylum and his right to a full and fair hearing.

3. The INA provides individuals the right to be present at their own removal proceedings. *See* 8 U.S.C. § 1229a(b)(2); *see also* 8 U.S.C. § 1229a(b)(2)(B) (consent required for merit hearings to be conducted by telephone conference and after advising the individual "of the right to proceed in person"). Moreover, the INA provides statutory safeguards to ensure that persons in removal proceedings are provided a fair hearing. This includes the right to have a "reasonable opportunity to examine the evidence against the [noncitizen], to present evidence on the [noncitizen]'s own behalf, and to cross-examine witnesses presented by the Government..." 8 U.S.C. § 1229a(b)(4)(B).

4. Respondents seek to remove Petitioner even though he does not have a final removal order and the removal period has not started, contrary to statute and Ninth Circuit case law. *See* 8 U.S.C. § 1231(a)(1)(B) ("The removal period begins on the latest of the following: … (i) The date the order of removal becomes administratively final."); *Cui v. Garland*, 13 F.4th 991, 996 (9th Cir. 2021) (an in absentia removal order does not become final until the 180 day period to file a motion to reopen runs, or when the BIA makes a decision on appeal of such a motion to reopen). Petitioner's appeal is still pending before the BIA, and therefore pursuant to *Cui* he does not have a final removal order.

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COUNT TWO

Violation of Fifth Amendment Right to Due Process
Procedural Due Process

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

6. Due process does not permit removal of Petitioner prior to a final order of removal or a hearing on his application for asylum, withholding, and relief under the Convention Against Torture. An individual "who faces deportation is entitled to a full and fair hearing of her claims and a reasonable opportunity to present evidence on her behalf." *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (emphasis added). Thus, the right to be present at one's own removal proceeding is fundamental to due process.

7. First, if removed, Petitioner is returned to the country from which he seeks asylum, effectively denying him a hearing on his claim and asylum, withholding of removal, or relief under the Convention Against Torture, contrary to his right to due process.

8. Second, Petitioner must be physically present in the U.S. in order to pursue an asylum claim. By definition, an asylum-seeker or refugee must be outside their country of origin. *See* 8 U.S.C. § 1101(a)(42) (a refugee is "outside any country of such person's nationality"). Thus, if he is removed, he is denied his due process right to a full and fair hearing on his asylum claim.

9. Third, even if it were lawful to pursue an asylum claim from overseas, Petitioner could not be physically present for his hearings and is substantially hindered in his ability to testify, present witnesses and evidence, consult with his attorneys, and cross-examine the government's witnesses and evidence. Each of these rights are recognized due process rights in removal proceedings. *See Saidane v. INS*, 129 F.3d 1063, 1065 (9th Cir. 1997) ("[T[he government must make a reasonable effort in [immigration] proceedings to afford the

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[noncitizen] a reasonable opportunity to confront the witnesses against him or her."); *Tawadrus v. Ashcroft*, 364 F.3d 1099, 1103 (9th Cir. 2004) ("Although there is no Sixth Amendment right to counsel in an immigration hearing, Congress has recognized it among the rights stemming from the Fifth Amendment guarantee of due process that adhere to individuals that are the subject of removal proceedings.").

10. Due process does not permit the government to re-detain Petitioner and strip him of his 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.

11. Respondents revoked Petitioner's release and deprived him of liberty without providing written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to their re-detention.

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

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

(1) Assume jurisdiction over this matter;

(2) Issue a Temporary Restraining Order, and further injunctive relief, enjoining Petitioner's removal pending the adjudication of this petition;

(3) Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243, and ordering that they not transfer Petitioner out of this district during the pendency of the court's adjudication of this petition;

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

(5) Declare that Petitioner may not be removed prior to an order of the BIA affirming his removal order;

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

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

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

Dated: November 4, 2025.

s/ Christopher Strawn

Christopher Strawn
WSBA No. 32243

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Counsel for Petitioner

VERIFICATION

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

s/ Christopher Strawn
Christopher Strawn
WSBA No. 32243

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