

District Judge Kymberly K. Evanson

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

E-A-T-B,

Petitioner,

v.

CAMMILLA WAMSLEY, *et al.*,

Respondents.

Case No. 2:25-cv-01192-KKE

FEDERAL RESPONDENTS' REPLY IN
SUPPORT OF MOTION TO DISMISS

Noted for Consideration:
August 15, 2025

I. INTRODUCTION

This Court has no cause to grant Petitioner E A T-B's Amended Petition for Writ of Habeas Corpus. Dkt. 4 ("Pet."). To obtain habeas relief, Petitioner must demonstrate that he is in custody in violation of the Constitution or the laws of the United States. U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner pursuant to 8 U.S.C. § 1226(a). Petitioner's detention comports with due process and does not violate the Administrative Procedure Act ("APA"), to the extent that such a claim may be cognizable under habeas.

The main facts in this case are undisputed. Petitioner is a noncitizen without legal status in the United States. He is in active removal proceedings before the immigration court. When commencing removal proceedings, ICE initially released Petitioner on an Order of Release on

1 Recognizance in lieu of detention (“conditional parole”), but his release was conditioned on his
2 meeting certain requirements, including the successful participation in the Alternatives to
3 Detention Program (“ATP”). By agreeing to participate in the ATP program, Petitioner had
4 notice that failure to comply with its requirements would result in a redetermination of his
5 release conditions or his arrest and detention. Dkt. No. 18-3, Order of Release on Recognizance.

6 On June 18, 2025, ICE detained Petitioner after his immigration court proceeding and
7 notified him that he was being taken into custody because he had violated an ATP requirement.
8 Dkt. No. 23-2, Petitioner Decl., ¶ 10 (“the agents said they were arresting because I had missed a
9 check in”). He is now detained at the Northwest ICE Processing Center (“NWIPC”) and his
10 immigration proceedings, in which he is represented by counsel, have been transferred to
11 Tacoma Immigration Court. Under Section 1226(a), Petitioner can seek a bond redetermination
12 hearing before an immigration judge (“IJ”), 8 C.F.R. §§ 236.1(d)(1), 1003.19, but he has not
13 done so.

14 While Petitioner avers that he complied with his ATP requirements, ICE re-detained him
15 after learning of at least two ATP violations. Dkt. No. 17, Federal Respondents’ Return and
16 Motion to Dismiss (“Return”), at 3-4. This re-detention violated neither statute nor regulation.
17 There is no requirement that ICE provide Petitioner with a pre-deprivation hearing before taking
18 him into custody under Section 1226(a). If Petitioner wants a neutral arbiter to review his
19 detention, he has “substantial procedural protections” available to him. *Rodriguez Diaz v.*
20 *Garland*, 53 F.4th 1189, 1193 (9th Cir. 2022). Thus, release by this Court is not warranted.

21 II. ARGUMENT

22 A. ICE lawfully detains Petitioner pursuant to 8 U.S.C. § 1226(a).

23 Congress enacted a multi-layered statutory scheme that provides for the civil detention of
24 noncitizens pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008).

Where an individual falls within this scheme affects whether his detention is discretionary or mandatory, as well as the kind of review process available. *Id.*, at 1057. The detention of a noncitizen pending removal proceedings is governed by 8 U.S.C. § 1226. *See Rodriguez Diaz*, 53 F.4th at 1196 (citing, *e.g.*, *Jennings v. Rodriguez*, 583 U.S. 281 (2018)). “Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien ‘pending a decision on whether the alien is to be removed from the United States.’” *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1226(a)). “‘Except as provided in [§ 1226(c)]’ the Attorney General ‘may release’ an alien detained under § 1226(a) ‘on . . . bond’ or ‘conditional parole.’” *Id.*¹

By regulation, a detainee has specific procedural rights while detained under Section 1226(a). “When a person is apprehended under § 1226(a), an ICE officer makes the initial custody determination. The alien will be released if he ‘demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.’” *Rodriguez Diaz*, 53 F.4th 1196 (quoting 8 C.F.R. § 236.1(c)(8)) (internal citation omitted). Thereafter, “a detainee may request a bond hearing before an IJ at any time before a removal order becomes final.” *Id.* (citing 8 C.F.R. §§ 236.1(d)(1), 1003.19). “On top of this, an individual detained pursuant to § 1226(a) may request an additional bond hearing whenever he experiences a material change in circumstances.” *Id.* (citing 8 C.F.R. § 1003.19(e)).

Section 1226(a) does not, however, provide for a pre-detention hearing. Rather, “an ICE officer makes the initial custody determination,” which the noncitizen can later request to have reviewed by an IJ. *Rodriguez Diaz*, 53 F.4th at 1196. The Supreme Court has long upheld the

¹ Section 1226(c), which mandates the detention of noncitizens who have committed certain offenses, is not at issue here.

1 constitutionality of this basic process. *See, e.g., Reno v. Flores*, 507 U.S. 292, 309 (1993)
2 (rejecting procedural due process claim that “the INS procedures are faulty because they do not
3 provide for automatic review by an immigration judge of the initial deportability and custody
4 determinations”); *Abel v. United States*, 362 U.S. 217, 233-34 (1960) (noting the “impressive
5 historical evidence of acceptance of the validity of statutes providing for administrative
6 deportation arrest from almost the beginning of the Nation”); *Carlson v. Landon*, 342 U.S. 524,
7 538 (1952) (“Detention is necessarily a part of this deportation procedure.”); *Wong Wing v.*
8 *United States*, 163 U.S. 228, 235 (1896) (“We think it clear that detention or temporary
9 confinement, as part of the means necessary to give effect to the provisions for the exclusion or
10 expulsion of aliens, would be valid.”).

11 Instead of being guaranteed pre-detention IJ review, noncitizens detained under
12 Section 1226(a) are provided with multiple avenues to seek review of their detention once they
13 are in custody – a process that the Ninth Circuit has held is constitutionally sufficient. *See*
14 *Rodriguez Diaz*, 53 F.4th at 1213. Petitioner’s detention here under Section 1226(a) without a
15 pre-detention hearing was thus not unlawful – it was expressly sanctioned by statute.

16 The fact that Petitioner had initially been released by ICE on conditional parole does not
17 change this fact. There is no statutory or regulatory requirement that a noncitizen be provided
18 with a pre-detention hearing before re-detention. In fact, Petitioner agrees that ICE maintains the
19 discretionary authority to revoke conditional parole and detain the noncitizen pursuant to 8
20 C.F.R. § 236.1(c)(9). Dkt. No. 22, Resp., at 9. Contrary to Petitioner’s assertion though, ICE’s
21 authority to re-arrest has not been limited to circumstances where a material change in
22 circumstances has occurred. *Id.*

23 Petitioner incorrectly argues that *In re Sugay*, 17 I. & N. Dec. 637, 639-40 (B.I.A. 1981),
24 prevents ICE from rearresting a noncitizen absent a change in circumstances. Resp., at 9. But

1 the relevant portion of *Sugay* merely “recognize[d] counsel’s argument” in this regard; the BIA
2 did not hold that such changed circumstances were a requirement for rearrest. *See* 17 I. & N.
3 Dec. at 640; *see also Saravia v. Sessions*, 905 F.3d 1137, 1145 n.10 (9th Cir. 2018) (“[T]he
4 district court never held that *Sugay* requires these hearings.”). Other courts have recognized that
5 *Sugay*’s dicta is not “binding on ICE.” *Bermudez Paiz v. Decker*, No. 18-cv-4759, 2018 WL
6 6928794, at *16 n.19 (S.D.N.Y. Dec. 27, 2018). Regardless, as discussed below, the ATP
7 violations were a changed circumstance that led to Petitioner’s re-detention.

8 Thus, Petitioner’s detention is lawful.

9 **B. Petitioner has failed to exhaust his administrative remedies.**

10 This Court should require Petitioner to avail himself of the substantial procedural
11 protections of Section 1226(a) before seeking habeas relief in a federal district court. Petitioner
12 has never requested a bond redetermination hearing from an IJ. 8 C.F.R. § 236.1(d)(1). And
13 even if he were to disagree with an IJ’s future bond decision, he would be able to
14 administratively appeal the decision to the BIA. Therefore, Petitioner has several layers of
15 process available to him prior to seeking this Court’s intervention.

16 Although exhaustion of administrative remedies is not a jurisdictional prerequisite for
17 habeas petitions, courts generally “require, as a prudential matter, that habeas petitioners exhaust
18 available judicial and administrative remedies before seeking [such] relief.” *Castro-Cortez v.*
19 *INS*, 239 F.3d 1037, 1047 (9th Cir. 2001) (abrogated on other grounds by *Fernandez-Vargas v.*
20 *Gonzales*, 548 U.S. 30 (2006)). The exhaustion requirement is subject to waiver because it is not
21 a “‘jurisdictional’ prerequisite.” *Id.*

22 Courts may require prudential exhaustion where: “(1) agency expertise makes agency
23 consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of
24 the requirement would encourage the deliberate bypass of the administrative scheme; and (3)

1 administrative review is likely to allow the agency to correct its own mistakes and to preclude
2 the need for judicial review.” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007).

3 The Court should not allow Petitioner to move forward with this litigation without first
4 exhausting his administrative remedies. Like the circumstances here, a court in this district
5 dismissed a noncitizen’s habeas petition because the petitioner had failed to seek a bond
6 redetermination hearing at the administrative level. *Cristobal v. Asher*, 20-cv-1493-RSM-BAT,
7 2020 WL 8678097, at * 3 (W.D. Wash. Dec. 14, 2020), *Rep. & Rec. adopted by* 2021
8 WL796597 (W.D. Wash. Mar. 2, 2021). In *Cristobal*, the petitioner had been detained for 15
9 months and was denied bond at an initial bond redetermination hearing, but he never sought a
10 second bond redetermination hearing based on changed circumstances before filing a habeas
11 petition. In comparison, Petitioner has not even pursued the preliminary administrative remedy
12 that the *Cristobal* petitioner had pursued – an initial bond redetermination hearing – before filing
13 a habeas petition in the district court. Therefore, this Court should also dismiss this Petition.

14 Furthermore, this case meets the elements requiring prudential exhaustion. Even if the IJ
15 had denied bond, Petitioner would have had the ability to appeal the denial to the BIA. The BIA
16 “has a special expertise in reviewing the question of whether the bond record as a whole makes it
17 substantially unlikely that the Department w[ill] prevail on [the petitioner’s] challenge to
18 removability.” *Francisco Cortez v. Nielsen*, No. 19-CV-00754-PJH, 2019 WL 1508458, at *3
19 (N.D. Cal. Apr. 5, 2019) (internal quotation marks omitted). Also, allowing a “relaxation of the
20 exhaustion requirement” would promote the avoidance of seeking a bond redetermination by the
21 IJ or an appeal of similar IJ orders to the BIA. Finally, the outcome of a bond redetermination
22 hearing before an IJ or a subsequent BIA appeal may provide Petitioner with the relief sought
23 here – an individualized bond hearing and ultimately release.

24 Accordingly, Petitioner has failed to exhaust his administrative remedies.

1 **C. ICE had cause to revoke Petitioner’s release.**

2 ICE’s reliance on ATP violations as the basis for Petitioner’s re-detention is lawful. As a
3 preliminary point, Petitioner’s hearsay argument is inapposite here. Resp., at 12-13. There is no
4 prohibition on ICE’s use of hearsay when deciding whether a person’s conditional parole may be
5 revoked. In fact, ICE must be able to rely on its systems for such decisions. The statements in
6 DO Hubbard’s declaration (Dkt. No. 19) and the statements in the arrest reports provide this
7 Court with the reason for ICE’s revocation of Petitioner’s release.

8 Furthermore, Petitioner was on notice that “[f]ailure to comply with the requirements of
9 the ATD program will result in a redetermination of your release conditions or your arrest and
10 detention.” Dkt. No. 18-3, Order of Release on Recognizance. Petitioner does not deny that
11 violations on December 18, 2024, or on January 2, 2025, occurred. Instead, he speculates as to
12 other potential reasons for his re-detention.

13 Petitioner argues that differences in two arrest reports “suggests [his] arrest was not based
14 on his individual circumstances, but rather broad executive directives to detain immigrants in
15 large numbers.” Resp., at 13. Petitioner emphasizes the reference to an unspecified guidance
16 and change in directive in the arrest report drafted on the day of his arrest and speculates about
17 the meaning of terms. *Id.*, at 14-15. He then asserts that the lack of these references in the
18 second arrest report demonstrates “pretext and the unreliability of the later report.” *Id.*, at 16.
19 But the two reports are not inconsistent.

20 Both reports reference Petitioner’s ATP violations. *Id.*, at 13. The second arrest report
21 provides additional detail about the encounter between ICE and Petitioner, and the facts are
22 supported by Petitioner’s own assertions. Like in the arrest paperwork, Petitioner concedes that
23 ICE informed him that he was being detained due to ATP violations. *Compare* Dkt. No. 18-4,
24 Form I-213 (arrest report, dated June 25, 2025), at 4 (“Walsh informed the female that he was

1 being taken into custody because of his missed biometric check ins”) *with* Dkt. No. 23-2, Pet.
2 Decl., ¶ 10 (“the agents said that they were arresting me because I had missed a check in”); *and*
3 Dkt. No. 23-5, Martinez Decl., ¶ 3 (stating that agent told her that he had missed his check-ins).
4 Thus, it is not reasonable to believe that the ATP violations provided some post hoc
5 rationalization as the basis of Petitioner’s arrest.

6 In addition, Petitioner’s belief that he “was successfully participating in the ATP
7 program” is based on his characterization of the meaning of “successful participation.” Resp., at
8 18-19. He argues that because his ATP reporting requirements were lessened after his ATP
9 violations, his ATP participation was successful. But ICE does not have the resources to address
10 ATP violations when they are issued. Wilson Decl., ¶ 4. Thus, it is not unreasonable for them to
11 have only noticed the violations during a routine review of his case as described by Supervisory
12 Detention and Deportation Officer (“SDDO”) Wilson. Wilson Decl., ¶ 5. In the same vein,
13 Petitioner’s assertion that the issuance of employment authorization in February 2025
14 demonstrates his success in ATP is not accurate. Resp., at 19. His employment authorization
15 was issued by another agency before ICE’s case review. *Id.*

16 Accordingly, the submitted evidence provides a reasonable basis and cause for
17 Petitioner’s re-detention.

18 **D. Petitioner’s detention comports with due process.**

19 Petitioner’s detention does not violate his substantive and procedural due process rights.
20 First, Petitioner alleges that “there is no legitimate government interest in his detention.” Resp.,
21 at 20. Second, he argues that “his sudden arrest, without notice, and without the opportunity to
22 argue that he was not a flight risk or a danger to the community violates his procedural due
23 process rights.” *Id.* He is incorrect on both counts.

1 **1. Substantive Due Process**

2 ICE has a legitimate interest in Petitioner’s detention. For more than a century, the
 3 immigration laws have authorized immigration officials to charge aliens as removable from the
 4 country, to arrest aliens subject to removal, and to detain aliens for removal proceedings. *See*
 5 *Demore v. Kim*, 538 U.S. 510, 523-26 (2003); *Abel v. United States*, 362 U.S. 217, 232-37
 6 (1960) (discussing longstanding administrative arrest procedures in deportation cases).
 7 “Detention during removal proceedings is a constitutionally valid aspect of the deportation
 8 process.” *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore*, 538 U.S.
 9 at 523); *see Demore*, 538 U.S. at 523 n.7 (“prior to 1907 there was no provision permitting bail
 10 for any aliens during the pendency of their deportation proceedings”); *Carlson v. Landon*, 342
 11 U.S. 524, 538 (1952) (“Detention is necessarily a part of [the] deportation procedure.”). Indeed,
 12 removal proceedings ““would be in vain if those accused could not be held in custody pending
 13 the inquiry into their true character.”” *Demore*, 538 U.S. at 523 (quoting *Wong Wing v. United*
 14 *States*, 163 U.S. 228, 235 (1896)).

15 Section 1226(a) provides that “an alien *may* be arrested and detained pending a decision
 16 on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a) (emphasis
 17 added). The Attorney General and the Department of Homeland Security (“DHS”) thus have
 18 broad discretionary authority to detain an alien during removal proceedings. *See* 8 U.S.C.
 19 § 1226(a)(1) (DHS “may continue to detain the arrested alien” during the pendency of removal
 20 proceedings); *Nielsen v. Preap*, 586 U.S. 392, 409 (2019) (highlighting that “subsection (a)
 21 creates authority for *anyone’s* arrest or release under § 1226 – and it gives the Secretary broad
 22 discretion as to both actions” (emphasis in original)). When a noncitizen is apprehended, a DHS
 23 officer makes an initial custody determination. *See* 8 C.F.R. § 236.1(c)(8). DHS “may continue
 24 to detain the arrested alien.” 8 U.S.C. § 1226(a)(1). “To secure release, the alien must show that

1 he does not pose a danger to the community and that he is likely to appear for future
2 proceedings.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R.
3 §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999)). If
4 DHS decides to release the alien, it may set a bond or place other conditions on release. *See* 8
5 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8). This is what happened here.

6 The fact that ICE made an initial determination that Petitioner was appropriate for release
7 on conditional parole does not prevent ICE from later revoking that parole. ICE has the clear
8 discretionary authority to revoke conditional parole. 8 C.F.R. § 236.1(c)(9). SDDO Wilson
9 made an individual determination to revoke Petitioner’s conditional parole after his ATP
10 violations came to ICE’s attention during a routine review of noncitizens with upcoming
11 immigration court hearings. Wilson Decl., ¶ 5. And as Petitioner was notified when he agreed
12 to his conditional parole, violations of ATP are a basis of such revocation. Thus, ICE has a
13 legitimate, non-punitive interest in his detention.

14 **2. Procedural Due Process**

15 “Due process is flexible and calls for such procedural protections as the particular
16 situation demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test
17 demonstrates that Petitioner’s detention is consistent with his due process rights. Under
18 *Mathews*, “[t]he fundamental requirement of due process is the opportunity to be heard at a
19 meaningful time and in a meaningful manner.” *Id.*, at 333 (internal quotation marks omitted).
20 This calls for an analysis of (1) “the private interest that will be affected by the official action,”
21 (2) “the risk of an erroneous deprivation of such interest through the procedures used, and
22 probable value, if any, of additional or substitute procedural safeguards,” and (3) the
23 Government’s interest. *Id.*, at 334-35.

a. Liberty Interest.

Respondents recognize the “weighty liberty interests implicated by the Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). However, Petitioner’s interest in his liberty *generally* does not mean that he possesses a separate or heightened liberty interest in the continuation of his conditional release. Moreover, Petitioner does not have a liberty interest in participating in ATP. Mot., at 4.

“The recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has ‘firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.’” *Rodriguez Diaz*, 53 F.4th at 1206 (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has explained, “[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.” *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly “recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore*, 538 U.S. at 523.

Petitioner’s release was always subject to conditions of release, and he knew that he could be re-detained if he violated those conditions. Accordingly, Petitioner cannot claim that the government promised him ongoing freedom.

b. The existing procedures are constitutionally sufficient.

Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation of Petitioner’s liberty here is minimal. First, noncitizens have no right to a hearing before an immigration judge *before* they are detained under Section 1226(a). Likewise, there is no requirement for such a hearing before re-detention after revocation of release. The Supreme Court has warned courts against reading additional procedural requirements into the INA. *See*

1 *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific bond
 2 hearing requirement into 8 U.S.C. § 1231(a)(6) because “reviewing courts . . . are generally not
 3 free to impose [additional procedural rights] if the agencies have not chosen to grant them”)
 4 (quoting *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435
 5 U.S. 519, 524 (1978) (cleaned up)).

6 Second, Petitioner had notice that ATP violations could lead to his re-detention when he
 7 agreed to the program. Going forward, he may seek a custody redetermination before an IJ
 8 through the substantial procedural protections afforded to him under Section 1226(a). *Rodriguez*
 9 *Diaz*, 53 F.4th at 1193.

10 **c. The Government has a strong interest in returning noncitizens to**
 11 **custody who violate conditions of release.**

12 Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews*
 13 test “must account for the heightened government interest in the immigration detention context.”
 14 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the
 15 Ninth Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in
 16 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez*
 17 *Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). “This is especially true when it
 18 comes to determining whether removable aliens must be released on bond during the pendency
 19 of removal proceedings.” *Rodriguez Diaz*, 53 F.4th at 1208. The government likewise has an
 20 interest in enforcing compliance with its orders of release on recognizance and returning
 21 individuals to custody who violate their terms.

22 In short, the three *Mathews* factors demonstrate that Petitioner’s detention comports with
 23 procedural due process.

1 **C. Petitioner’s APA claim fails.**

2 As argued in the Return, Petitioner does not have a cognizable claim under the APA to
3 challenge his detention. Return, at 4-5. Even if they were reviewable, Petitioner’s APA claims
4 fail.

5 First, the basis of Petitioner’s claim that the revocation of his release was “arbitrary and
6 capricious” because there was no individual determination is wrong. Resp., at 33. ICE
7 conducted an individual review of Petitioner’s case which led to the revocation decision by
8 SDDO Wilson. Wilson Decl., ¶ 5.

9 Second, the basis for Petitioner’s re-detention has not “evolved” since he brought this
10 habeas litigation. Resp., at 33-34. ICE has consistently contended that the ATP violations were
11 the cause of his re-detention. This is what the officers informed Petitioner of the reason for his
12 detention on June 18, 2025, as conceded by Petitioner, and both arrest reports cite these
13 violations in their narrative.

14 Third, ICE has provided a reasonable explanation for why they did not revoke his release
15 until months after the violations. Resp., at 34. Due to limited resources, ICE cannot
16 immediately respond to every ATP violation. Wilson Decl., ¶ 3. Here, Petitioner’s ATP
17 violations came to ICE’s attention during a routine case review, which led to the determination to
18 revoke his release. Wilson Decl., ¶ 5. The delay from the time of the violations to this
19 determination does not negate the violations existence.

20 Finally, ICE acted within its lawful authority under 8 C.F.R. § 236.1(c)(9). Resp., at 35-
21 36. As Petitioner points out, the regulation provides a list of officers with discretionary authority
22 to revoke release. *Id.* Here, a Supervisory Detention and Deportation Officer (“SDDO”) made
23 the determination to revoke Petitioner’s release. While SDDO is not an officer listed in the
24 regulation, this function has been re-delegated to include SDDOs with the discretionary authority

1 concerning detention decisions under Section 236.1. ERO Delegation Order 0001.1, Re-
2 delegation of certain detention and removal authority. *See* Lambert Decl., Ex. A. Thus, ICE
3 acted within its lawful authority when revoking Petitioner's release at the discretion of an
4 SDDO.

5 III. CONCLUSION

6 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
7 the Petition and dismiss this matter.

8 DATED this 15th day of August, 2025.

9 Respectfully submitted,

10 TEAL LUTHY MILLER
Acting United States Attorney

11 *s/ Michelle R. Lambert*

12 MICHELLE R. LAMBERT, NYS No. 4666657
Assistant United States Attorney
13 United States Attorney's Office
Western District of Washington
14 1201 Pacific Avenue, Suite.700
Tacoma, WA 980402
15 Phone: 253-428-3824
Fax: 253-428-3826
16 Email: michelle.lambert@usdoj.gov

17 *Attorneys for Federal Respondents*

18 *I certify that this memorandum contains 3,932*
19 *words, in compliance with the Local Civil Rules.*