

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Hillary Walsh  
NEW FRONTIER IMMIGRATION LAW  
550 W. Portland St.  
Phoenix, AZ 85003  
hillary@newfrontier.us  
623.742.5400 o  
888.210.7044 f  
*Attorney for Petitioner-Plaintiff*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Nasir Mohammad Mohammad-Qasim  
Petitioner-Plaintiff,  
  
v.  
  
John Cantu, et al.,  
  
Respondents-Defendants.

Case No. 2:25-cv-02637 SMB  
MTM



**PETITIONER'S REPLY TO  
RESPONDENTS'  
SUPPLEMENTAL BRIEFING**

1 Petitioner Nasir Mohammad Mohammad-Qasim (“Petitioner”), by and through  
2 undersigned counsel, respectfully submits this reply to Respondents’ Supplemental Briefing (ECF  
3 No. 20) pursuant to the Court’s Order of October 6, 2025 (ECF No. 19).

4 **I. Introduction**

5 The Court’s October 6, 2025 order narrowed this case to a single question: whether ICE  
6 lawfully revoked Mr. Mohammad-Qasim’s long-standing release and re-detained him in  
7 compliance with 8 C.F.R. § 241.4 and the Due Process Clause. (ECF No. 19 at 3–5). The Court  
8 directed Respondents to “supplement the record with documentary evidence and a declaration  
9 outlining the process undertaken to revoke Petitioner’s release under 8 C.F.R. § 241.4.” (*Id.* at 5).  
10

11 Respondents’ supplemental filing supplies no such process. Instead, they argue that §  
12 241.4(l) “did not apply,” state that the prior bond was cancelled under § 241.3(b), and claim that  
13 detention is authorized under 8 U.S.C. § 1231(a) as interpreted in *Zadvydas v. Davis*, 533 U.S.  
14 678 (2001). (ECF No. 20 at 1–3; ECF No. 20-1, Exs. A–C). That response neither complies with  
15 the Court’s order nor cures the underlying constitutional defect.  
16

17 *First*, re-detention occurred on July 25, 2025—four days before the removal order became  
18 final on July 29, 2025—so Respondents’ post-final-order framing cannot justify the initial seizure  
19 or the revocation of liberty without process. (*See* ECF No. 1 ¶¶ 43-45; ECF No. 19 at 1-2). *Second*,  
20 even after July 29, the government may not summarily revoke judicially conferred liberty without  
21 notice and a neutral determination supported by changed circumstances; due process demands  
22 more than administrative paperwork. *See Mathews v. Eldridge*, 424 U.S. 319 (1976); *Saravia v.*  
23 *Sessions*, 905 F.3d 1137, 1142–44 (9th Cir. 2018); *Matter of Sugay*, 17 I. & N. Dec. 637, 640  
24 (BIA 1981); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). Third, *Zadvydas* addressed  
25  
26  
27  
28

1 only the permissible duration of post-order detention, not the procedures required before the  
2 government may revoke liberty already granted by judicial order. 533 U.S. at 701.

3 Because Respondents failed to show any § 241.4 process and because re-detention  
4 occurred without the constitutionally required safeguards, the Court should order immediate  
5 release and enjoin re-arrest absent a pre-deprivation hearing before a neutral adjudicator at which  
6 the government proves materially changed circumstances by clear and convincing evidence.  
7

8 **II. Respondents Failed to Comply with the Court's Order and with 8 C.F.R. § 241.4**

9 The Court's October 6, 2025 Order (ECF No. 19) required Respondents to "supplement  
10 the record with documentary evidence and a declaration outlining the process undertaken to  
11 revoke Petitioner's release under 8 C.F.R. § 241.4." The Court entered that directive because,  
12 while acknowledging that ICE had re-detained Petitioner on July 25, 2025, Respondents had  
13 produced no record showing compliance with § 241.4 or any other lawful procedure governing  
14 revocation of release. (*Id.* at 3–5). The order thus placed a clear burden on the government to  
15 demonstrate that Petitioner's re-detention followed the process required by regulation and by due  
16 process.  
17

18 Respondents' supplemental filing does not meet that obligation. Rather than describe or  
19 document any review under § 241.4(l), Respondents contend that the regulation "did not apply,"  
20 assert that Petitioner's prior bond "became moot" when his removal order was finalized, and  
21 attach only a "Notice of Immigration Bond Cancellation" executed the same day Petitioner was  
22 taken into custody. (ECF No. 20 at 2–3; ECF No. 20-1 Ex. C.) Those materials show no hearing,  
23 no notice, and no determination by a neutral decisionmaker—only that ICE unilaterally cancelled  
24 an existing bond and resumed custody.  
25  
26  
27  
28

1 That response fails on two levels. *First*, it does not comply with the Court’s order. The  
2 Court did not ask Respondents to argue that § 241.4 was inapplicable; it ordered them to  
3 demonstrate what process was actually undertaken “to revoke Petitioner’s release under § 241.4.”  
4 (ECF No. 19 at 5). By asserting that no such process was required, Respondents effectively  
5 concede that none occurred.  
6

7 *Second*, even apart from the Court’s order, the response fails to establish lawful  
8 compliance with § 241.4. When ICE revokes release and returns an individual to custody after  
9 the removal period begins, the regulation requires: (i) notice of “the reasons for revocation” and  
10 an “initial informal interview promptly after” return to custody, 8 C.F.R. § 241.4(l)(1); (ii) a  
11 discretionary revocation determination by an authorized official, § 241.4(l)(2); (iii) scheduling of  
12 a custody review with notice of a records review and an interview “ordinarily . . . within  
13 approximately three months after” revocation, § 241.4(l)(3); and (iv) service of a custody decision  
14 that “briefly set[s] forth the reasons for the continued detention,” § 241.4(d). Nothing in  
15 Respondents’ submission shows that any of these steps occurred. A same-day bond cancellation  
16 under § 241.3(b) is automatic once the removal period begins; it is not a custody review and does  
17 not satisfy the notice, interview, review, and written-reasons requirements that § 241.4 imposes.  
18

19  
20 In short, the government’s submission neither complies with the Court’s order nor  
21 demonstrates lawful procedure under § 241.4. By producing no evidence of the notice, informal  
22 interview, or custody review required by that regulation, Respondents confirm that Petitioner’s  
23 liberty was revoked summarily—without any of the process that § 241.4 prescribes and without  
24 a contemporaneous administrative record. That omission is precisely what prompted the Court’s  
25 supplemental order and is sufficient on its face to establish that the re-detention was unlawful.  
26  
27  
28

1 **III. The July 25, 2025 Re-Detention Required Pre-Deprivation Process Under § 1226**  
2 **and Due Process Principles**

3 The government’s supplemental brief again assumes that Petitioner’s re-detention was  
4 governed by 8 U.S.C. § 1231(a) because his removal order later became final. (ECF No. 20 at 2–  
5 3.) That premise is incorrect as a matter of both timing and law. The record establishes that ICE  
6 re-detained Petitioner on **July 25, 2025**, while his removal order did not become final until **July**  
7 **29, 2025**, after the Ninth Circuit denied his motions to recall the mandate and stay removal. (ECF  
8 No. 14 ¶¶ 44–45; ECF No. 19 at 2–3). When ICE acted on July 25, Petitioner remained in pre-  
9 final-order status, and the governing detention framework was therefore § 1226, not § 1231.  
10

11 Under § 1226 and its implementing regulation, 8 C.F.R. § 236.1(c)(9), DHS may revoke  
12 a previously issued bond or re-arrest a released individual only if there has been a material change  
13 in circumstances since the individual’s release. *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA  
14 1981). That requirement ensures that the government cannot disregard a prior custody  
15 determination made by an immigration judge absent new facts demonstrating danger or flight  
16 risk. Here, Respondents identify no such change in circumstances. They point to no new conduct,  
17 violation of release conditions, or threat to public safety. Their own submission confirms that the  
18 only event preceding re-detention was the issuance of the Ninth Circuit’s mandate—an event that,  
19 standing alone, does not transform a compliant, law-abiding individual into a flight risk or a  
20 danger to the community.  
21

22  
23 Because ICE revoked Petitioner’s liberty without identifying or proving any changed  
24 circumstances, its action violated both § 1226(b) and the Due Process Clause. Under Mathews,  
25 due process requires notice and an opportunity to be heard at a meaningful time before revoking  
26 previously conferred liberty; the Ninth Circuit has affirmed a preliminary injunction requiring a  
27  
28

1 prompt hearing before a neutral decisionmaker when DHS re-detained individuals who had  
2 previously been released. *See Mathews*, 424 U.S. at 333; *Saravia v. Sessions*, 905 F.3d 1137,  
3 1142–45 (9th Cir. 2018). When the government seeks to re-detain individuals who have already  
4 been released following a prior determination that detention was unnecessary, due process  
5 requires a hearing before a neutral decisionmaker at which the government bears the burden of  
6 showing that circumstances have materially changed. That principle applies here. Once an  
7 immigration judge determined in 2020 that Petitioner’s detention was unnecessary and ordered  
8 his release on bond, the government could not later revoke that liberty without providing the same  
9 fundamental protections the Ninth Circuit required in *Saravia*: notice, a hearing, and a showing  
10 of changed circumstances by the government.  
11

12  
13 ICE provided none of these safeguards. It did not give notice of intent to revoke bond, did  
14 not conduct a hearing before a neutral adjudicator, and did not make any individualized finding  
15 that Petitioner had become dangerous or unlikely to appear. Instead, ICE officers simply arrested  
16 him at work and cancelled his bond on paper the same day. (ECF No. 20-1 Ex. C). That action  
17 was a summary seizure, not lawful administrative process.  
18

19 The absence of pre-deprivation process is constitutionally significant. “Procedural due  
20 process imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or  
21 ‘property’ interests within the meaning of the [Fifth Amendment] Due Process Clause.” *Mathews*  
22 *v. Eldridge*, 424 U.S. 319, 332 (1976). “The fundamental requirement of [procedural] due process  
23 is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Id.* at 333  
24 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). To determine whether the process  
25 afforded satisfies the Constitution, courts consider three factors: (1) “the private interest that will  
26 be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest  
27  
28

1 through the procedures used, and the probable value, if any, of additional or substitute procedural  
2 safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal  
3 and administrative burdens that the additional or substitute procedural requirement would entail.”

4 *Id.* at 335.

5 Applying these factors, Petitioner’s private liberty interest is profound: he had been free  
6 for nearly five years under a judicial bond order and had fully complied with its terms. The risk  
7 of erroneous deprivation under ICE’s summary re-detention procedure—where no notice or  
8 hearing occurred—is total, while the value of a short, neutral hearing before revocation would be  
9 substantial. Finally, the government’s administrative burden in providing such a hearing is  
10 minimal compared to the magnitude of the liberty interest at stake. The balance of these factors  
11 confirms that ICE was constitutionally required to afford Petitioner notice and an opportunity to  
12 be heard before re-detaining him.  
13

14 Because no such process was provided, the July 25, 2025, re-detention violated *Mathews*  
15 and the Due Process Clause, rendering the government’s action unlawful from its inception.  
16

17 **IV. Even If § 1231(a) Governs After Finality, Due Process Still Requires Procedural**  
18 **Safeguards Before Revocation of Liberty**

19 Even accepting Respondents’ premise that Petitioner’s detention is governed by 8 U.S.C.  
20 § 1231(a) after July 29, 2025, the government’s position still fails. Nothing in § 1231 or its  
21 implementing regulations authorizes ICE to revoke liberty already granted through a judicial bond  
22 order without notice, a hearing, or any individualized determination. Both § 241.4 and the Fifth  
23 Amendment require procedural safeguards before the government may re-incarcerate a person who  
24 has long been at liberty.  
25

26 Section 241.4 was designed to ensure precisely that protection. It governs “continued  
27  
28

1 detention of inadmissible, criminal, and other aliens beyond the removal period” and requires ICE  
2 to make and document specific custody determinations. See 8 C.F.R. § 241.4(a). When, as here,  
3 an individual who was previously released is later taken back into custody, subsection (l) applies:  
4 ICE must notify the person of the reasons for revocation, promptly conduct an informal interview,  
5 and initiate the custody-review process that culminates in a written custody decision setting forth  
6 the reasons for continued detention. *Id.* §§ 241.4(d), (l)(1)–(3). Respondents’ supplemental filing  
7 contains none of these elements. They produced no notice, no record of an interview or review,  
8 and no indication that any authorized ICE official considered or approved Petitioner’s re-detention  
9 under this framework.  
10

11         The failure to follow these procedures not only contravenes § 241.4 but also violates the  
12 constitutional requirement of due process. Conditional liberty—once conferred—cannot be  
13 revoked by executive fiat. The existence of a removal order does not extinguish a noncitizen’s  
14 procedural rights. *See, e.g., Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (explaining  
15 that the government’s discretion to detain “is always constrained by the requirements of due  
16 process”). That principle is especially compelling where, as here, the person has already been  
17 found not to be a flight risk or a danger and has demonstrated years of compliance.  
18

19         Moreover, Respondents’ reliance on *Zadvydas v. Davis*, 533 U.S. 678 (2001), is misplaced.  
20 *Zadvydas* addressed how long the government may continue to detain an individual after the  
21 ninety-day removal period under § 1231(a)(6) when removal is not reasonably foreseeable. The  
22 Court construed the statute to include an implicit “reasonable time” limitation—holding that  
23 indefinite detention would raise grave constitutional concerns—and established a six-month  
24 presumption of reasonableness. *Id.* at 689–701. The decision thus limits the duration of post-order  
25 detention; it does not authorize the government to forgo procedural safeguards when initiating or  
26  
27  
28

1 reinstating that detention. To the contrary, *Zadvydas* reaffirmed that “[f]reedom from  
2 imprisonment—from government custody, detention, or other forms of physical restraint—lies at  
3 the heart of the liberty that [the Due Process] Clause protects,” *id.* at 690, and cautioned that the  
4 “Constitution may well preclude granting an administrative body unreviewable authority to make  
5 determinations implicating fundamental rights,” *id.* at 679, 692. That principle underscores, rather  
6 than undermines, Petitioner’s position: before ICE may revoke an individual’s liberty, it must  
7 provide the procedural protections consistent with § 241.4 and the Due Process Clause.  
8

9 Here, no procedure of any kind occurred. ICE agents simply executed an arrest and  
10 cancelled the bond without contemporaneous review. That approach is inconsistent with both the  
11 regulatory safeguards of § 241.4 and the constitutional baseline that the government must provide  
12 an opportunity to be heard “at a meaningful time and in a meaningful manner” before depriving a  
13 person of liberty. *Mathews*, 424 U.S. at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552  
14 (1965)).  
15

16 Even under the post-final-order framework, therefore, Respondents were required to  
17 conduct a custody review, issue a written determination, and provide Petitioner an opportunity to  
18 contest re-detention before it occurred. Their failure to do so leaves the July 25, 2025 arrest and  
19 continued detention without legal or constitutional foundation.  
20

21 **V. Conclusion**

22 Respondents have not met the Court’s directive or their obligations under 8 C.F.R. §  
23 241.4. Their supplemental filing provides no evidence of the notice, interview, or custody-review  
24 procedures that regulation requires, and no showing of any lawful process preceding Petitioner’s  
25 re-detention. The record instead confirms that ICE summarily revoked a judicially conferred  
26 liberty interest without the safeguards mandated by regulation or by the Due Process Clause.  
27  
28

1 Because the government has failed to demonstrate that Petitioner's July 25, 2025 arrest and  
2 continued detention were lawful, the Court should order his immediate release and enjoin any  
3 future re-detention absent a pre-deprivation hearing before a neutral decisionmaker where the  
4 government bears the burden to show materially changed circumstances warranting renewed  
5 custody.

6 Dated: October 17, 2025

Respectfully submitted,

7 /s/ Hillary Walsh

8 Hillary Walsh

9 *Attorney for Petitioner-Plaintiff*

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on October 17, 2025, I electronically transmitted this PETITIONER'S  
REPLY TO RESPONDENTS' SUPPLEMENTAL BRIEFING to the Clerk's Office using the  
CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following  
CM/ECF registrants:

Timothy Courchaine  
United States Attorney  
District of Arizona

Katherine R. Branch  
Civil Chief  
U.S. Attorney's Office  
District of Arizona  
40 North Central Avenue, Suite 1800  
Phoenix, Arizona 85004  
Telephone: 602-514-7762  
Email: Katherine.branch@usdoj.gov

/s/ Hillary Walsh  
Hillary Walsh  
*Attorney for Petitioner-Plaintiff*