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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 JOSE LOPEZ REYES,

9 Petitioner,

Case No. C25-1868-JLR-MLP

10 v.

REPORT AND RECOMMENDATION

11 CAMILLA WAMSLEY, *et al.*,

12 Respondents.

13
14 I. INTRODUCTION

15 Petitioner Jose Lopez Reyes seeks relief from his detention via a petition for writ of
16 habeas corpus under 28 U.S.C. § 2241. (Dkt. # 1.) Respondents Cammilla Wamsley, Bruce
17 Scott, Kristi Noem, Pamela Bondi, and the United States Department of Homeland Security
18 (together, “Respondents”) have answered the petition (dkt. # 8), and Petitioner has replied (dkt.
19 # 11). Having reviewed the petition, Respondents’ answer, the supporting documents (dkt. ## 3,
20 9, 10, 12), and the relevant law, this Court recommends granting the petition for writ of habeas
21 corpus (dkt. # 1), ordering Petitioner’s immediate release from detention, and prohibiting
22 Respondents from re-detaining him without a bond determination hearing before a neutral
23 decisionmaker. This Court’s reasoning follows.

1 **II. BACKGROUND**

2 Petitioner Jose Lopez Reyes, a 47-year-old asylum seeker from Cuba, fled his home
3 country in February 2022, fearing imprisonment and harm to his family. (Dkt. # 3, ¶¶ 1-2.) Upon
4 arriving in the United States on April 1, 2022, Petitioner was initially detained, but was later
5 released on his own recognizance and placed in removal proceedings. (Dkt. # 10-2 at 2.) His
6 initial hearing was scheduled for May 27, 2025, before an immigration court in Miami. (Dkt.
7 # 10-1 at 2.)

8 Following his release, Petitioner complied with Immigration Customs and Enforcement
9 (“ICE”) check-in requirements and attended his scheduled hearing on May 27, 2025. (Dkt. # 3,
10 ¶¶ 2, 7-10.) During this time, he obtained work authorization, secured employment as a truck
11 driver, and began a relationship with his girlfriend. (*Id.*, ¶¶ 5-6.)

12 At his May 27, 2025, hearing, however, the court dismissed Petitioner’s case at ICE’s
13 request. (Dkt. # 3, ¶ 10.) Petitioner was subsequently re-detained, and ICE initiated expedited
14 removal proceedings under 8 U.S.C. § 1225(b)(1). (Dkt. # 8 at 3.)

15 After being re-detained in May, Petitioner was transferred to several facilities before
16 being placed in custody at the Northwest ICE Processing Center (“NWIPC”) in Tacoma,
17 Washington, where he remains detained. (Dkt. # 3, ¶ 11.) Following a credible fear interview
18 pursuant to 8 U.S.C. § 1225(b)(1)(B)(v), he was found to have a credible fear of persecution if
19 returned to Cuba. (Dkt. # 3, ¶ 13; *see also* dkt. # 10-4 at 2.) Consequently, he is back where he
20 started: in removal proceedings pursuing a claim for relief based on his fear of returning to Cuba.
21 (Dkt. # 3, ¶¶ 13-17; *see also* dkt. # 8 at 3.) A master calendar hearing was scheduled for October
22 14, 2025, before an immigration judge in Tacoma. (Dkt. # 9, ¶ 16.) The outcome of this
23 proceeding is unknown as of the date of this order.

1 Petitioner filed his habeas petition on September 26, 2025, arguing that the Due Process
2 Clause requires his immediate release from detention. (Dkt. # 1.) The petition also seeks to
3 prevent Respondents from re-detaining him without a pre-deprivation hearing. (*Id.*)

4 III. ANALYSIS

5 A. Legal Standard

6 Federal courts have authority to grant writs of habeas corpus to an individual in custody
7 if that custody violates “the Constitution or laws or treaties of the United States[.]” 28 U.S.C.
8 § 2241(c)(3).

9 Petitioner argues that his arrest and detention violate the Due Process Clause of the Fifth
10 Amendment to the United States Constitution (dkt. ## 1 at 8-12; 11 at 4-13), which prohibits the
11 federal government from depriving any person of “life, liberty, or property, without due process
12 of law[.]” U.S. CONST. AMEND. V. The right to due process extends to “all ‘persons’ within
13 the United States, including [non-citizens], whether their presence here is lawful, unlawful,
14 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

15 “Procedural due process imposes constraints on governmental decisions which deprive
16 individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause of
17 the Fifth or Fourteenth Amendment.” *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). To
18 comply with procedural due process, an individual must have “the opportunity to be heard ‘at a
19 meaningful time and in a meaningful manner.’” *Id.* at 333 (quoting *Armstrong v. Manzo*, 380
20 U.S. 545, 552 (1965)). In *Rodriguez Diaz v. Garland*, the Ninth Circuit assumed without
21 deciding that *Mathews*’ three-part test applies in “the immigration detention context.” 53 F.4th
22 1189, 1206-07 (9th Cir. 2022).

1 Although Respondents note that the Supreme Court has not applied *Mathews* to an
2 immigration detention challenge (dkt. # 8 at 13-14), numerous district courts have applied this
3 test in similar immigration detention contexts. *See E.A. T.-B. v. Wamsley*, 2025 WL 2402130, at
4 *3 n.4 (W.D. Wash. Aug. 19, 2025) (collecting cases). This Court will therefore evaluate
5 Petitioner’s claim using the *Mathews* three-part test:

6 First, the private interest that will be affected by the official action; second,
7 the risk of an erroneous deprivation of such interest through the procedures
8 used, and the probable value, if any, of additional or substitute procedural
9 safeguards; and finally, the Government’s interest, including the function
10 involved and the fiscal and administrative burdens that the additional or
11 substitute procedural requirement would entail.

12 *Mathews*, 424 U.S. at 335.

13 **B. Petitioner Has a Considerable Private Interest in His Freedom**

14 Petitioner argues that he “has an exceptionally strong interest in freedom from physical
15 confinement and in a hearing [before a neutral decisionmaker] prior to any revocation of his
16 liberty.” (Dkt. # 11 at 6.) This Court agrees.

17 Petitioner’s interest in not being detained is “the most elemental of liberty interests[.]”
18 *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Arresting Petitioner in public, detaining him,
19 transferring him to a facility in a different state, and continuing to hold him in custody
20 undoubtedly deprives him of an established interest in his liberty.

21 Respondents’ counter that “while Petitioner has an interest in his liberty generally, it is
22 not the same as that enjoyed by a citizen[.]” (Dkt. # 8 at 14.) This argument, however, does not
23 address Petitioner’s central concern. Petitioner does not contend that his liberty interest is
equivalent to that of a citizen. Instead, he asserts that the Constitution protects his interest in
liberty by requiring due process if it is to be deprived. (Dkt. # 1 at 8-11.)

1 “Freedom from bodily restraint has always been at the core of the liberty protected by the
2 Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80
3 (1992); *see also Zadvydas*, 533 U.S. at 696 (a non-citizen has a liberty interest “strong enough”
4 to challenge “indefinite and potentially permanent” immigration detention). Courts in this circuit
5 have consistently found that the “government’s subsequent release of [an] individual from
6 custody creates ‘an implicit promise’ that the individual’s liberty will be revoked only if they fail
7 to abide by the conditions of their release.” *See, e.g., Calderon v. Kaiser*, 2025 WL 2430609, at
8 *2 (N.D. Cal. Aug. 22, 2025) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)).

9 When he was released from his initial detention on his own recognizance, Petitioner
10 acquired a liberty interest entitled to the protections of the Due Process Clause. *See Doe v.*
11 *Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. Mar. 3, 2025) (“The Supreme Court has
12 repeatedly recognized that individuals who have been released from custody, even where such
13 release is conditional, have a liberty interest in their continued liberty.”). Petitioner’s actions
14 since his initial release demonstrate both his reasonable reliance on this interest and the
15 weightiness of that interest. Following his release, Petitioner sought assistance to file his asylum
16 application, obtained work authorization, earned enough money to cover his expenses and
17 immigration legal fees, and began a relationship. Petitioner could only accomplish these actions
18 while free.

19 Contrary to Respondents’ statutory arguments, Petitioner’s private liberty interest is not
20 preempted by the government’s discretion to determine the conditions of release. *See, e.g.,*
21 *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“the government’s discretion to
22 incarcerate non-citizens is always constrained by the requirements of due process”). This Court
23 also notes that Respondents’ arguments fail to explain why they found Petitioner eligible for

1 release on his own recognizance in April 2022, but not three years later after he had established
2 ties to the community, maintained employment, attended all of his immigration check-ins, and
3 filed an asylum application. *See, e.g., Y-Z-L-H v. Bostock*, 2025 WL 1898025, at *14 (D. Or. July
4 9, 2025) (noting that such a discrepancy may be considered an arbitrary and capricious decision).

5 Accordingly, the first *Mathews* factor weighs in Petitioner’s favor.

6 **C. The Risk of Erroneous Deprivation of Liberty is High**

7 Petitioner argues that the risk of erroneous deprivation of his liberty interest in the
8 absence of a pre-detention hearing is high, especially given his ties to this country and the fact
9 that he has not received notice of the basis for his re-detention, let alone an opportunity to
10 respond. (Dkt. # 11 at 9-12.) This Court agrees.

11 Respondents posit, without explanation, that the government’s “existing procedures are
12 sufficient to protect the interest in continued liberty.” (Dkt. # 8 at 14.) They contend that because
13 Petitioner is an applicant for admission, he was not statutorily entitled to a hearing before he was
14 re-detained. (*Id.* at 9-12.) However, Petitioner does not claim entitlement to a hearing under a
15 particular statute; he argues that the Due Process Clause requires it. Respondents’ argument is
16 therefore misplaced. *See, e.g., Vargas v. Jennings*, 2020 WL 5517277, at *2 (N.D. Cal. Sep. 14,
17 2020) (that a petitioner is not entitled by statute or regulation to a pre-arrest hearing does not
18 bear on whether a hearing is required for procedural due process).

19 Moreover, the Government fails to appreciate the distinctions between Petitioner’s
20 situation upon entry to the United States and his situation when he was re-detained. Petitioner’s
21 initial detention and release occurred before he had ever appeared in immigration court, before
22 he had retained an attorney, and *with* consideration of the danger he posed to the community and
23 the likelihood that he would appear for future hearings. This Court finds that re-detaining

1 Petitioner at this point without first reconsidering those factors poses a significant risk of an
2 erroneous deprivation of his liberty interest in continued release. *See Doe*, 787 F. Supp. 3d at
3 1094 (“[G]iven that Petitioner was previously found to not be a danger or risk of flight . . . the
4 risk of erroneous deprivation remains high.”). The fact “that the Government may believe it has a
5 valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a
6 manner that comports with due process.” *E.A. T.-B.*, 2025 WL 2402130, at *4 (citation omitted).

7 Accordingly, the second *Mathews* factor weighs in Petitioner’s favor.

8 **D. Respondents’ Interest in Petitioner’s Re-Detention is Minimal**

9 The countervailing governmental interest in Petitioner’s re-detainment is minimal.
10 Respondents’ argue that there is a “heightened government interest in the immigration detention
11 context[.]” (Dkt. # 8 at 14.) But those interests are not threatened if a pre-deprivation hearing is
12 required. The fact that Respondents have not articulated a single reason for re-detaining
13 Petitioner—who has no criminal history, timely filed for asylum, obtained a work permit, and
14 attended his in-person check-ins and immigration court proceedings for years—undermines any
15 suggestion that Respondents’ interests must be satisfied immediately or that the cost of
16 procedural safeguards would be insurmountable. While providing Petitioner a hearing before
17 re-detaining him would require expending resources (money and time), those costs are
18 outweighed by the risk of erroneous deprivation of the liberty interest at stake. *See, e.g., Ortega*
19 *v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019) (“If the government wishes to
20 re-arrest Ortega at any point, it has the power to take steps toward doing so; but its interest in
21 doing so without a hearing is low.”).

22 In sum, this Court finds that all three *Mathews* factors weigh in Petitioner’s favor. He
23 should be released and only re-detained after a hearing before an immigration judge.

1 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
2 served upon all parties to this suit not later than **fourteen (14) days** from the date on which this
3 Report and Recommendation is signed. Failure to file objections within the specified time may
4 affect your right to appeal. Objections should be noted for consideration on the District Judge's
5 motions calendar **fourteen (14) days** from the date they are filed. Responses to objections may
6 be filed by **the day before the noting date**. If no timely objections are filed, the matter will be
7 ready for consideration by the District Judge on **November 5, 2025**.

8 The Clerk is directed to send copies of this order to the parties and to the Honorable
9 James L. Robart.

10 Dated this 15th day of October, 2025.

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12 MICHELLE L. PETERSON
13 United States Magistrate Judge
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