

District Judge Ricardo S. Martinez

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

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

LUIS RAMOS NEVAREZ,

Petitioner,

v.

CAMMILLA WAMSLEY, *et al.*,

Respondents.

Case No. 2:25-cv-02064-RSM

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
November 4, 2025

The Court should deny Petitioner Luis Ramos Nevarez's Petition for Writ of Habeas Corpus. Dkt. 2 ("Pet."). Petitioner, who does not dispute that he is removable and in removal proceedings, challenges his detention at the Northwest ICE Processing Center ("NWIPC") as unlawful. Specifically, Petitioner contends that his Fifth Amendment right to due process was violated when U.S. Immigration and Customs Enforcement (ICE) arrested him and re-detained him without prior notice or a pre-deprivation hearing to determine whether re-detention was warranted. Pet. ¶¶ 44-45. However, Petitioner is not entitled to relief because he is subject to mandatory detention under 8 U.S.C. § 1225(b). Accordingly, Federal Respondents respectfully request that this Court deny the Petition.

1 This motion is supported by the pleadings and documents on file in this case and the
2 Declaration of Deportation Officer Christopher Hubbard (“Hubbard Decl.”). The Federal
3 Respondents do not believe that an evidentiary hearing is necessary.

4 **I. BACKGROUND**

5 **A. Factual Background**

6 Petitioner is a native and citizen of Mexico. Hubbard Decl. ¶ 3. On or about May 14,
7 2021, Petitioner presented himself for inspection by Customs and Border Patrol (“CBP”) at the
8 Oakland International Airport having flown in from Mexico City, Mexico, and presented a valid
9 and unexpired Mexican passport and non-immigrant B1/B2 visa. *Id.* ¶ 4. Petitioner was referred
10 to secondary inspection, where he was questioned about prior travel to the United States, and
11 where CBP discovered photographs of Petitioner working construction during a prior trip to the
12 United States in 2020. *Id.* ¶¶ 4-5. Petitioner gave a sworn statement admitting to engaging in
13 unauthorized employment in the United States, and he was deemed inadmissible to the United
14 States. *Id.* ¶¶ 6-7. CBP initially processed Petitioner for Expedited Removal, and Petitioner
15 claimed fear from being threatened by a Mexican cartel. *Id.* ¶ 8. Petitioner was then served a
16 Notice to Appear and charged with removal under INA § 212(a)(7)(A)(i)(I). *Id.* Due bed space
17 restrictions related to the COVID-19 pandemic, Petitioner was then released into the United
18 States. *Id.* Based on the documents currently available, Respondents are unable to determine
19 whether Petitioner was paroled into the United States.

20 On July 14, 2021, a superseding Notice to Appear was sent to Petitioner via certified
21 mail and was delivered on July 20, 2021, correcting an initial error in Petitioner’s address. *Id.*
22 ¶ 9. On August 10, 2021, Petitioner filed a Change of Address form with the immigration court
23 to reflect his new address on SW Electric Street in Beaverton, Oregon. *Id.* ¶ 10. On January 25,
24 2022, the immigration court issued a case notice to Petitioner’s new address scheduling

1 Petitioner for a master calendar hearing on June 14, 2022, in the San Francisco immigration
2 court. *Id.* Petitioner did not report for his hearing. *Id.*

3 On January 10, 2023, the immigration court issued another case notice scheduling
4 Petitioner for a master calendar hearing on April 30, 2024, before the San Francisco
5 immigration court. *Id.* ¶ 11. Petitioner appeared pro se in front of the immigration court and
6 requested his case be transferred to Oregon. *Id.* Petitioner provided an updated Change of
7 Address form to the court showing he had been living on Woodard Court in Beaverton, Oregon.
8 *Id.* The immigration judge subsequently granted Petitioner's request to change venue to the
9 immigration court in Portland, Oregon. *Id.*

10 On October 14, 2025, officers from the Office of Enforcement and Removal Operations
11 ("ERO") in Portland, Oregon conducted an enforcement operation in Beaverton, Oregon. *Id.*
12 ¶ 13. ERO observed Petitioner enter a vehicle and activated their emergency lights and
13 approached. *Id.* Petitioner exited the vehicle and attempted to run but was detained without
14 further incident. *Id.* The officers conducted a field interview during which Petitioner was
15 positively identified and admitted to being a citizen and national of Mexico without any lawful
16 status in the United States. *Id.* On June 2, 2024, the Portland immigration court issued a case
17 notice scheduling Petitioner for a master calendar hearing on December 28, 2026. *Id.* ¶ 12.

18 The Portland ERO office considered Petitioner's lack of a stable residence and attempt
19 to flee in determining Petitioner to be a flight risk and as reasons for re-detention. *Id.* ¶ 14.
20 Petitioner was served and signed a Form I-286, Notice of Custody Determination, and requested
21 an immigration judge review the custody determination. *Id.* ¶ 15.

22 On October 14, 2025, following Petitioner's arrest, he was transferred to the NWIPC in
23 Tacoma, Washington, where he remains detained and in active removal proceedings. *Id.* ¶ 16.

1 **B. Legal Background**

2 Congress enacted a multi-layered statutory scheme that provides for the civil detention
3 of noncitizens pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir.
4 2008). Where an individual falls within this scheme affects whether his detention is
5 discretionary or mandatory, as well as the kind of review process available. *Id.* at 1057.

6 Aliens who are apprehended shortly after illegally crossing the border and who are
7 determined to be inadmissible due to lacking a visa or valid entry documentation, 8 U.S.C.
8 § 1182(a)(7)(A), may be removed pursuant to an expedited removal order unless they express
9 an intention to apply for asylum or a fear of persecution in their home country. 8 U.S.C.
10 §§ 1225(b)(1)(A)(i), (iii)(II). “The purpose of these provisions is to expedite the removal from
11 the United States of aliens who indisputably have no authorization to be admitted to the United
12 States, while providing an opportunity for such an alien who claims asylum to have the merits
13 of his or her claim promptly assessed by officers with full professional training in adjudicating
14 asylum claims.” H.R. Conf. Rep. No. 828, 104th Cong., 2d Sess. 209 (1996).

15 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers
16 aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
17 documentation, and certain other aliens designated by the Attorney General in her discretion.
18 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for
19 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*
20 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Congress has determined that all aliens
21 subject to Section 1225(b) are subject to mandatory detention. Regardless of whether an alien
22 falls under Section 1225(b)(1) or (b)(2), the sole means of release is “temporary parole from §
23 1225(b) detention ‘for urgent humanitarian reasons or significant public benefit,’ §
24 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

1 **II. LEGAL STANDARD**

2 District courts have jurisdiction to hear federal habeas petitions under 28 U.S.C. § 2241.
3 To warrant a grant of habeas corpus, the petitioner must demonstrate that his or her custody is in
4 violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3).

5 **III. ARGUMENT**

6 The INA, 8 U.S.C. § 1101 *et seq.*, entrusts the Executive branch to remove inadmissible
7 and deportable noncitizens and to ensure that noncitizens who are removable are in fact
8 removed from the United States. “[D]etention necessarily serves the purpose of preventing
9 deportable [] aliens from fleeing prior to or during their removal proceedings, thus increasing
10 the chance that if ordered removed, the aliens will be successfully removed.” *Demore v. Kim*,
11 538 U.S. 510, 528 (2003). The Supreme Court has long held that deportation proceedings
12 “would be in vain if those accused could not be held in custody pending the inquiry” of their
13 immigration status. *Wong Wing v. United States*, 163 U.S. 228, 235 (1896). Congress intended
14 for all applicants for admission to be detained during their removal proceedings. *See Jennings*,
15 583 U.S. at 299 (interpreting the “plain meaning” of sections 1225(b)(1) and (2) to mean that
16 applicants for admission be mandatorily detained for the duration of their immigration
17 proceedings).

18 Petitioner does not appear to contest that he is an “applicant for admission” subject to
19 mandatory detention under Section 1225(b). Nor does he identify any statutory or regulatory
20 requirement that a noncitizen be provided with a pre-detention hearing before re-detention, or
21 that ICE’s authority to re-detain is limited to circumstances where a material change in
22 circumstances has occurred. Nevertheless, Petitioner argues this Court should apply the
23 “balancing test” of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), and determine that he
24 should have received notice and a hearing before being placed back into immigration detention,

1 rather than seek a post-detention bond hearing. But the Supreme Court has never utilized
2 *Mathews*' multi-factor "balancing test" to evaluate due process claims raised by noncitizens
3 held in civil immigration detention, despite multiple opportunities to do so since the Supreme
4 Court decided *Mathews* in 1976. See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir.
5 2022) ("[T]he Supreme Court when confronted with constitutional challenges to immigration
6 detention has not resolved them through express application of *Mathews*." (citations omitted);
7 *id.* at 1214 ("In resolving familiar immigration-detention challenges, the Supreme Court has not
8 relied on the *Mathews* framework.") (Bumatay, J., concurring). The Ninth Circuit has assumed
9 without deciding the *Mathews* test applied to challenges to immigration detention. *Rodriguez*
10 *Diaz*, 53 F.4th at 1207.

11 Even if the Court applies the *Mathews* test, as Petitioner advocates, the Ninth Circuit has
12 emphasized that "*Mathews* remains a flexible test that can and must account for the heightened
13 governmental interest in the immigration detention context."¹ *Id.* at 1206. While Petitioner has
14 an interest in his liberty generally, it is not the same as that enjoyed by a citizen, and "[i]n the
15 exercise of its broad power over naturalization and immigration, Congress regularly makes rules
16 that would be unacceptable if applied to citizens." *Mathews v. Diaz*, 426 U.S. 67, 79–80 (1976).
17 The Supreme Court has "recognized detention during deportation proceedings as a
18 constitutionally valid aspect of the deportation process." *Demore*, 538 U.S. at 522. And Courts
19 have long recognized the "heightened government interest in the immigration detention
20 context," particularly in the context of determining "whether removable aliens must be released
21 on bond during the pendency of removal proceedings." *Rodriguez Diaz*, 53 F.4th at 1206–08.

22
23 ¹ Petitioner has cited cases from this district where the court applied the *Mathews* test to find that a petitioner
24 subject to mandatory detention could not be re-detained without a pre-deprivation hearing. Pet. ¶¶ 36-41 (citing,
e.g., *E.A. T.-B. v. Wamsley, et al.*, No. 25-1192-KKE, -- F. Supp. 3d --, 2025 WL 2402130 (W.D. Wash. Aug. 19,
2025). While Respondents acknowledge these decisions, they respectfully disagree with their holdings.

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

V. CONCLUSION

For the foregoing reasons, the Petition should be denied.

DATED this 28th day of October, 2025.

Respectfully submitted,

CHARLES NEIL FLOYD
United States Attorney

s/ Sean Arenson
SEAN ARENSON, WSBA No. 60465
Assistant United States Attorney
Western District of Washington
United States Attorney's Office
700 Stewart Street, Suite 5220
Seattle, WA 98101-1271
Tel: (206) 553-7970
Fax: (206) 553-4073
Email: sean.arenson@usdoj.gov

Attorneys for Federal Respondents

I certify that this memorandum contains 1,656 words, in compliance with the Local Civil Rules.