

District Judge Jamal N. Whitehead
Chief Magistrate Judge Theresa L. Fricke

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

SANTOS OROZCO VALLE,

Petitioner,

v.

BRUCE SCOTT, et. al.,

Respondents.

Case No.: 2:25-cv- 02429-JNW-TLF

PETITIONER'S TRAVERSE

Agency File Number:



INTRODUCTION

Petitioner, Santos Orozco Valle, urges this Court to see through the Federal Respondents' post hoc rationalization for violating Petitioner's due process rights, grant this petition, and order Mr. Orozco Valle's immediate release.

Petitioner is a noncitizen of Mexico who Respondents initially released from immigration custody on humanitarian parole to pursue his application for asylum before the non-detained immigration courts. Respondents subsequently re-arrested him without providing him with written notice of termination of his parole, as Respondents concede is required by the regulations, Dkt. 7 at 11, or holding a hearing before a neutral decisionmaker to determine if Petitioner had violated his conditions of release and now presents a flight risk or danger to the community.

1 Respondents attempt to justify this unconstitutional conduct by pointing to alleged
2 release violations by Petitioner. However, as detailed below, Respondents' factual allegations
3 about Mr. Orozco Valle's criminal history are inaccurate and misleading. Dkt 7 at 1, 8-9, Dkt 8
4 at 2-3, and Dkt 9-2 at 3. Specifically, Mr. Orozco Valle has only one conviction for violating a
5 protection, not two as Respondents allege, and many of Petitioner's other law enforcement
6 contacts have resulted in dismissals or acquittals. *See* Exhibits A-G Certified Court Dockets. But
7 even if Mr. Orozco Valle's encounters with the criminal justice system while on parole were the
8 grounds for terminating his parole, due process demands that Respondents afford Petitioner a
9 meaningful process before re-detention, not mere unilateral reliance on the word of the
10 "government enforcement agent" to justify re-detention. *Coolidge v. New Hampshire*, 403 U.S.
11 443, 450 (1971). Because Respondents' manner of re-detaining Petitioner did not comport with
12 procedural due process, Petitioner has been unlawfully detained since his re-detention in May
13 2025. Petitioner accordingly requests that the Court grant this petition.

14 **RESPONSIVE AND RELEVANT SUPPLEMENTAL STATEMENT OF FACTS**

15 Respondents do not disagree with the key facts in the case as presented in the petition.
16 Petitioner applied for admission at the San Ysidro Port of Entry and requested asylum based on
17 the severe physical harm that he suffered in Mexico at the hands of the Mexican police and cartel
18 members. Petitioner was taken into custody and served with an Expedited Order of Removal.
19 Based on his clear articulation of a fear of return to Mexico, DHS referred him for a Credible
20 Fear Interview. An asylum officer with U.S. Citizenship and Immigration Services ("USCIS")
21 made a positive credible fear finding. Mr. Orozco Valle applied for asylum with the immigration
22 court, and Respondents released Petitioner on humanitarian parole. On May 1, 2025, Petitioner
23 was re-arrested without Respondents first providing him with written notice terminating his

1 parole or a hearing before a neutral decisionmaker where Immigration and Customs Enforcement
2 (ICE) demonstrated by clear and convincing evidence that he was re-arrested because of a
3 release violation or showing he is now a flight risk or danger to the community. On November
4 18, 2025, an Immigration Judge ordered Petitioner removed but granted withholding of removal
5 to Mexico under the Convention Against Torture.

6 As of December 17, 2025, Petitioner filed a notice of appeal with the Board of
7 Immigration Appeals; however, to date this appeal has not been reflected on the Executive
8 Office for Immigration Review's online case system. *See* Declaration by Julia C. Hunter.

9 Petitioner disagrees with Respondents' allegations regarding his criminal history.
10 Contrary to Respondents' allegations, Dkt. 7 at 1, Dkt. 8 at 2-3, Dkt. 9 at 2-3, only two of Mr.
11 Orozco Valle's encounters with law enforcement resulted in convictions, and only one is a
12 violation of a protection order. *See* Exhibit A, Certified Court Docket, Case No. XZ0247045
13 (violation of a protection order) and Exhibit C, Certified Court Docket, Case No. 9Z0918528
14 (negligent driving in the first degree). All of Petitioner's other arrests that Officer Benjamin lists
15 in his declaration, *see* Dkt. 8 at 2-3, resulted in dismissals or acquittals. *See* Exhibits D, Certified
16 Court Docket, Case No. 9Z0559665 (dismissal of disorderly conduct charge), Exhibit E,
17 Certified Court Docket, Case No. 201004544 (dismissal of harassment charge), Exhibit F,
18 Certified Court Docket, Case No. XZ0259452 (acquittal by jury verdict of domestic violence
19 charge), Exhibit G, Certified Court Docket, Case No. 1A0756084 (acquittal by jury verdict of
20 driving under the influence charge).

21 Moreover, with respect to Mr. Orozco Valle's one conviction for a protection order
22 violation, the Court should see from the docket that this criminal prosecution dragged on for
23 years, and much of that delay was due to the state prosecution's request for a competency

1 evaluation. *See* Exhibit A, Case No. XZ0247045. On October 13, 2023, Petitioner was found
2 guilty by jury verdict, and the municipal court judge sentenced him to a total of ten days in jail
3 (364 days with 354 days suspended). *Id.* at 12-13. Mr. Orozco Valle appealed the conviction, and
4 the municipal court judge stayed enforcement of the judgment and sentence pending appeal.
5 Exhibit A at 15-16; Exhibit B, Notice of Appeal. However, for over a year, the municipal court
6 could not find a court-appointed attorney to represent Mr. Orozco Valle on appeal. Exhibit A at
7 17-19. Eventually, the state prosecutor requested the municipal court judge lift the stay because
8 the appeal was not moving forward. *Id.* at 17. Disregarding Mr. Orozco Valle's clear desire to
9 appeal his conviction, the municipal court judge lifted the stay and imposed the sentence of ten
10 days in jail on April 22, 2025. *Id.* at 21. The judgment entered by the municipal court on April
11 22, 2025, not April 25, 2025 as alleged, Dkt. 8 at 3, was the same judgment that was previously
12 entered on October 13, 2023. Exhibit A at 12-13, 21. Thus, contrary to Officer Benjamin's
13 declaration under oath, Respondents' allegation that Mr. Orozco Valle has two convictions for
14 violation of a protection order is demonstrably false. Accordingly, the Court should give less
15 weight to the reliability of Officer Benjamin's declaration now that it has been provided with the
16 complete records.

17 To the extent that Respondents now claim that Petitioner's convictions were the basis for
18 termination of his parole and re-detention, Petitioner notes that his claim focuses solely on
19 whether his re-detention procedures complied with the Fifth Amendment's Due Process Clause.

20 Moreover, now that Petitioner has filed an appeal of the Immigration Judge's decision, he
21 is not subject to an administratively final order of removal, as Respondents acknowledge. Dkt. 7
22 at 10. Therefore, Petitioner is no longer pursuing his claims under the Immigration and
23 Nationality Act and the Foreign Affairs Reform Restructuring Act of 1998.

ARGUMENT

A. Respondents violated Petitioner's right to procedural due process.

Petitioner's primary claim is that prior to re-detention, due process required Respondents to provide Petitioner with written notice terminating his parole and a hearing during which Respondents must demonstrate by clear and convincing evidence that he had violated his conditions of release so as to now pose a flight risk or danger to the community. Dkt. 1 at ¶¶ 43-47.

In recent weeks and months, courts around the country, including this one, have repeatedly and resoundingly held that due process requires the procedural safeguard of adequate notice and a pre-deprivation hearing. *See, e.g., Y.M.M. v. Wamsley*, No. 2:25-CV-02075, 2025 WL 3101782 (W.D. Wash. Nov. 6, 2025) (granting habeas petition, ordering immediate release due to lack of pre-deprivation hearing, and requiring adequate notice and an immigration court hearing prior to any future re-detention); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *8 (W.D. Wash. Oct. 7, 2025) (same); *Duong v. Kaiser*, No. 25-CV-07598-JST, 2025 WL 2689266, at *7 (N.D. Cal. Sept. 19, 2025) (same); *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316 (W.D. Wash. 2025)(same); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *8 (E.D. Cal. Aug. 21, 2025) (same); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *3 (W.D. Wash. Sept. 17, 2025) (granting TRO and ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *7 (N.D. Cal. July 24, 2025) (granting preliminary injunction and ordering that petitioner not be re-detained without a pre-deprivation hearing before a neutral immigration judge where the government must

demonstrate by clear and convincing evidence that she is a flight risk or danger); *Valdez v. Joyce*, No. 25-cv-4627-GBD, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) (same).

Even in cases where the federal respondents have alleged that re-detention without notice or a hearing was justified by alleged parole violations, like this one, courts have rejected these post hoc justifications and granted habeas relief because the re-detention was unlawful without adequate notice and a hearing. *Ramirez Tesara v. Wamsley*, No. 2:25-cv-01723, 2025 WL 2637663 (W.D. Wash. Nov. 25, 2025). This case is no different, and accordingly, the Court should grant the habeas petition.

To determine whether Petitioner's re-detention conforms with constitutional due process requirements, the Court must apply the three-part test articulated by the Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). It would appear Respondents agree that *Mathews* applies here, Dkt. 7 at 11, but claim that due process allows for "flexibility," depending on the situation. *Id.* However, as argued below, the Court should find that the Respondents' re-detention and ongoing detention of Petitioner with no process at all, much less prior notice or an opportunity to respond, violates his due process rights.

A. Mr. Orozco Valle's private interest is substantial.

Petitioner's interest in not being detained is "the most elemental of liberty interests[.]" *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004). Immigration authorities released Petitioner from custody on humanitarian parole within months of his initial entry in November 2018. For nearly six years, Petitioner diligently pursued his application for asylum, worked with valid employment authorization from USCIS, and supported his minor children. Dkt. 1 at ¶3. Petitioner has undoubtedly been deprived of an established liberty interest when he was aggressively arrested in public, detained for months, and remains at risk of being

1 transferred to another immigration detention facility out of state without this Court's
2 intervention. Even though noncitizen parolees enjoy only a "conditional liberty," the Supreme
3 Court has held that termination of that liberty constitutes a "grievous loss" requiring "some
4 orderly process." *Morrissey v. Brewer*, 408 U.S. 471, 480, 482 (1972). The fact that Petitioner, as
5 a parolee, was subject to conditional liberty does not diminish his interest in his continued
6 liberty. Dkt 1 at ¶44.

7 In its return, Respondents' do not meaningfully refute that Mr. Orozco Valle has a
8 constitutionally-protected liberty interest. Instead, Respondents' attempt to distract the Court by
9 arguing that Petitioner is subject to mandatory detention as an arriving alien and that his alleged
10 parole violations warranted re-detention. Dkt. 7 at 10-11. However, Respondent's argument
11 misses the point because Petitioner does not contest ICE's authority to detain noncitizens or
12 terminate parole based on verified parole violations. Rather, Petitioner emphatically challenges
13 the process by which Respondents re-detained him. *See Francois v. Wamsely*, No. 2:25-cv-
14 02122-RSM-GJL, 2025 WL 3063251, at *3 (W.D. Wash. Nov. 3, 2025) ("Any argument that
15 ICE acted within its authority has no affect [sic] on a claim contending that detention violates
16 Constitutional Due Process." (citation omitted)). Respondents completely ignore the significant
17 ties to the community that Petitioner developed in the nearly six years that he was released on
18 parole. Moreover, continuing to argue that Petitioner is subject to mandatory detention as an
19 arriving alien, over six years from his initial arrival and after regular removal proceedings under
20 8 U.S.C. § 1229a have been initiated is an impermissibly expansive interpretation of its detention
21 authority. Accordingly, the Court should find that the first *Mathews* factor weighs strongly in
22 Mr. Orozco Valle's favor.
23

B. The risk of erroneous deprivation of that liberty interest is high.

The Court should find that the risk of erroneous deprivation of Petitioner's protected liberty interest without notice or a pre-deprivation hearing is unacceptably high. Again, Respondents do not meaningfully argue the second *Mathews* factor. Instead, Respondents claim Petitioner's criminal convictions and "inability to follow legal orders" are valid reasons to re-detain him. Yet Respondents' post hoc rationale for re-detaining petitioner "does not eliminate [the Government's] obligation to effectuate the detention in a manner that comports with due process." *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322 (W.D. Wash. 2025). The Court should find that only adequate notice and a hearing before a neutral decisionmaker, during which ICE must prove that Mr. Orozco Valle's re-detention is justified, can ensure that Petitioner's liberty interest is adequately protected.

First, as Respondents concede in their return, the express terms of the regulation implementing humanitarian parole "requires written notice of termination of parole." Dkt. 7 at 11; *see also* 8 C.F.R. § 212.5(e). However, as Respondents acknowledge, they did not provide Petitioner with any meaningful notice stating the basis for terminating his parole. Dkt. 7 at 11. Rather, ICE agents aggressively arrested Petitioner on the side of a highway without any notice at all. Indeed, Respondents admit that "Petitioner was re-detained on the same day that he was released from jail." *Id.* Petitioner had no reason to suspect that at any moment he was going to be stopped and detained by ICE, and Respondents denied Petitioner any meaningful opportunity to review the alleged basis for terminating his parole or respond to these allegations when he was stopped by ICE agents on the highway.

Second, Respondents never provided Mr. Orozco Valle with a hearing before a neutral decisionmaker where ICE was required to show that he violated the conditions of release and is

1 now a flight risk or danger. Instead, Respondents contend that “Petitioner had [an] opportunity to
2 be heard concerning his underlying actions during his criminal proceedings,” this statement is
3 only partly true. As a more complete record shows, four out of six arrests resulted in dismissals
4 or acquittals. Exhibits D-G. Additionally, the court docket for Petitioner’s one protection order
5 violation clearly shows there were multiple procedural delays and irregularities, including the
6 court’s inability to locate an attorney to represent Mr. Orozco Valle on appeal as required under
7 the Sixth Amendment to the Constitution. Exhibit A at 17-19. While Petitioner acknowledges
8 that these procedural irregularities are not before this Court, Respondents can hardly claim that
9 Petitioner was afforded his full due process rights in the underlying state criminal proceeding
10 that would justify his re-detention without any procedural safeguards. Indeed, Respondents’
11 claimed justifications for re-detention only reinforce the high risk of erroneous deprivation that
12 exists absent a hearing before a neutral decisionmaker. *Cf. Ledesma Gonzalez*, 2025 WL
13 2841574, at *6 (agency rationale that “‘runs counter to the evidence’ before the agency” is
14 “arbitrary and capricious” (citation omitted)).

15 Moreover, most of Petitioner’s alleged violations occurred years ago, and these records
16 are publicly available. Accordingly, Respondents had years to address these alleged violations
17 with Mr. Orozco Valle by providing proper written notice, but chose not to. In sum, the record
18 makes clear that Respondents did not provide Mr. Orozco Valle with adequate notice or pre-
19 deprivation hearing, and any notion that Mr. Orozco Valle should have anticipated his detention
20 based on his criminal convictions is unavailing. As a result, the record before the Court continues
21 to demonstrate that the second *Mathews* factor weighs in favor of Mr. Orozco Valle’s petition for
22 a writ of habeas corpus.
23

C. The government’s interest in re-detaining Petitioner without a hearing is low.

In their return, Respondents broadly claim that “[d]ue process is flexible and calls for such procedural protections as the particular situation demands,” but they fail to articulate anything about the current situation that could possibly justify abandoning basic due process rights—notice and a pre-deprivation hearing— and the regulatory requirements regarding termination of parole. Dkt. 7 at 11. The fact that Respondents do not even attempt to identify a legitimate governmental interest in re-detaining Mr. Orozco Valle without a hearing is indicative of just how low the Government’s interest in re-detaining noncitizens previously released on parole without a hearing is. Petitioner can only surmise that by highlighting Petitioner’s criminal convictions, Respondents believe the Government has an interest in enforcing compliance with parole terms and detaining individuals who violate those terms. Dkt. 7 at 11. But again, Petitioner does not disagree. Petitioner is only arguing that in pursuing that interest the Government must adhere to the basic principles of due process that require it provide adequate written notice and an opportunity to be heard before taking that person into custody. While the cost of providing Petitioner with adequate notice and a pre-deprivation hearing would require the expenditure of some governmental resources, the Court should find that any administrative or financial burdens in providing Petitioner a hearing are far outweighed by the risk of erroneous deprivation of the liberty interest at issue. *Ledesma Gonzalez*, 2025 WL 2841574, at *8 (concluding government interest to be low even assuming “requiring pre-detention process would present some administrative burden”); *Garro Pinchi*, 2025 WL 2084921, at *6 (“[I]t is likely that the cost to the government of detaining [petitioner] pending any bond hearing would significantly exceed the cost of providing her with a pre-detention hearing.”).

1 **CONCLUSION**

2 In sum, each *Mathews* factor favors Mr. Orozco Valle. The Court should accordingly
3 grant the petition for a writ of habeas corpus, order his immediate release, and order that
4 Respondents not re-detain him “until after an immigration court hearing is held (with adequate
5 notice) to determine whether detention is appropriate.” *E.A. T.-B.*, 795 F. Supp. 3d at 1324.

6 Dated: December 22, 2025.

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WORD COUNT CERTIFICATION

Pursuant to Local Civil Rule 7, I certify that the foregoing response has 2892 words and complies with the word limit requirements of Local Civil Rule 7(e).

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