The Honorable Tana Lin
The Honorable S. Kate Vaughan

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

| | |
|---|---|
| JOSE JAIR MOSQUERA CAMACHO,<br><br>*Petitioner,*<br><br>v.<br><br>LAURA HERMOSILLO, et al<br><br>*Respondents.* | Case No. 2:25-cv-02457-TL-SKV<br><br>PETITIONER'S TRAVERSE AND RESPONSE TO RESPONDENTS' RETURN TO PETITION FOR WRIT OF HABEAS CORPUS<br><br>**Noted for Consideration:**<br>January 5, 2026 |

## INTRODUCTION

This case is about due process—specifically, the Constitution's demand that the government not revoke an individual's established liberty by unilateral fiat, nor detain individuals for unreasonable periods.

Petitioner lived in the community for more than two years after being released from initial DHS custody under its parole authority. He complied with every requirement imposed on him and appeared for proceedings. Yet on June 6, 2025, DHS placed Petitioner in ICE custody at the



**ROBBINS LAW, PLLC**
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

Northwest ICE Processing Center, where he has remained detained since. Respondents provided no written notice and no pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention was warranted based on individualized findings of flight risk or danger.

That is the constitutional defect at the center of this litigation. Due process protects "freedom from imprisonment—from government custody, detention, or other forms of physical restraint," and it requires notice and an individualized hearing before a neutral decisionmaker before the government revokes a person's established liberty. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970); *Morrissey v. Brewer*, 408 U.S. 471, 485 (1972). Courts in this District have repeatedly applied those principles to immigration re-detention and held that pre-deprivation process is required. *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025).

Respondents attempt to sidestep these due-process requirements by reframing Petitioner's confinement as "approximately four months" of post-final-order detention. But Petitioner has been in custody since June 6, 2025—approximately 213 days as of January 5, 2026. That relabeling does not cure the absence of constitutionally required process at the moment Respondents seized Petitioner and stripped him of his established liberty.

The Court should grant the Petition, order Petitioner's immediate release, and enter prospective relief requiring Respondents to provide constitutionally sufficient pre-deprivation procedures before any future effort to re-detain Petitioner.



**ROBBINS LAW, PLLC**
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

## STATEMENT OF FACTS

The parties agree on the central chronology.

1. Entry, initial custody, and release into the community.

Petitioner entered the United States on or around March 25, 2023, was apprehended shortly thereafter, and was released from custody on his own recognizance to continue removal proceedings in a non-detained posture. He relocated to Washington State and lived in Lynden, Washington from March 2023 until June 2025. During that time, he did not commit crimes, attempt to abscond, or miss scheduled immigration hearings.

2. Removal proceedings and asylum filing timeline.

DHS filed the Notice to Appear with the Seattle Immigration Court on or about August 8, 2024, initiating removal proceedings. Before that filing, Petitioner submitted his Form I-589 asylum application with U.S. Citizenship and Immigration Service (USCIS) on May 8, 2024. Petitioner later filed his asylum application with the Immigration Court on November 26, 2024.

3. Re-detention without pre-deprivation process.

On June 6, 2025, after traveling to Blaine, Washington, Petitioner inadvertently approached too near the Canadian border and was stopped and arrested by Customs and Border Protection officers. He was transported to the Northwest ICE Processing Center and has remained detained there since. Respondents provided no justification at the time of seizure, made no neutral individualized determination of flight risk or danger, and did not provide Petitioner a hearing before a neutral decisionmaker before re-detaining him.



**ROBBINS LAW, PLLC**
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

4. Withholding of removal to Colombia and administrative finality.

On September 3, 2025, an Immigration Judge granted Petitioner withholding of removal; both parties waived appeal and the decision became final that day. Respondents likewise characterize September 3, 2025 as the date the order became administratively final.

5. Third-country removal notices; no identified removal date.

Respondents state Petitioner was served with a third-country removal notice to Mexico on November 17, 2025 and to Honduras on December 2, 2025. Respondents nonetheless acknowledge they do not yet have a "specific date of anticipated removal."

## ARGUMENT

### I. Respondents Re-Detained Petitioner Without the Process the Constitution Requires—and They Do Not Dispute That Failure.

This case turns on a straightforward constitutional defect.

Respondents re-detained Petitioner after a prolonged period of liberty in the community without affording him any pre-deprivation hearing before a neutral decisionmaker at which ICE was required to justify the deprivation of liberty. Respondents do not meaningfully contest that such process is constitutionally required.

The Supreme Court has long held that conditional liberty is liberty nonetheless. When the government confers freedom from physical custody—whether styled as parole, probation, or supervised release—it creates a protected liberty interest that cannot be revoked without due process. *Morrissey v. Brewer*, 408 U.S. 471, 481–84 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973); *Young v. Harper*, 520 U.S. 143, 147–49 (1997).

*Morrissey* explains why. Conditional liberty permits a person "to live and work in the community," to form relationships, and to rely on the government's implicit assurance that liberty



ROBBINS LAW, PLLC
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

will not be withdrawn absent cause. 408 U.S. at 482. Revocation "inflicts a grievous loss" and therefore triggers the protections of the Due Process Clause. Id. at 481.

Courts applying *Morrissey* in the immigration context have reached the same conclusion: release from immigration detention gives rise to a constitutionally protected liberty interest inherent in the Due Process Clause itself. See *Guillermo M. R. v. Kaiser*, No. 25-cv-05436-RFL, 2025 WL 1983677, at *4 (N.D. Cal. July 17, 2025); *Ortega v. Kaiser*, No. 25-cv-05259-JST, 2025 WL 1771438, at *3 (N.D. Cal. June 26, 2025).

Petitioner's experience fits squarely within that framework. He lived in the community for years, complied with every condition of release, appeared for proceedings, and worked lawfully under ICE supervision. His liberty was revoked without notice, without explanation, and without neutral review. That deprivation falls at the core of what *Morrissey* forbids, and it is inconsistent with the Supreme Court's repeated statement that "'the root requirement' of the Due Process Clause" is "'that an individual be given an opportunity for a hearing before he is deprived of any significant protected interest.'" *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (quoting *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971)); *see Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (under *Mathews*, the Court has "usually" held that "the Constitution requires some kind of a hearing before the State deprives a person of liberty").

The Supreme Court has held that due process requires a pre-deprivation hearing before revocation of parole and probation. *See Morrissey*, 408 U.S. at 480–86; *Gagnon*, 411 U.S. at 782. Numerous district courts have extended those principles to immigration re-detention. *See, e.g.*, *Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *7–10 (E.D. Cal. Aug. 20, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *4–6 (N.D.



**ROBBINS LAW, PLLC**
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

Cal. Aug. 21, 2025); *Garcia*, 2025 WL 1927596, at *5; *Pinchi*, 2025 WL 1853763, at *1; *Ortega*, 415 F. Supp. 3d at 970; *Doe*, 2025 WL 691664, at *6; *Diaz v. Kaiser*, No. 3:25-cv-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020). Petitioner's re-detention without such a hearing is unconstitutional.

## II. Under *Mathews v. Eldridge*, Due Process Required a Pre-Deprivation Hearing—and Every Factor Favors Petitioner

Whether due process requires particular procedures is assessed under *Mathews v. Eldridge*, 424 U.S. 319 (1976), which weighs the:

(1) Private interest affected;
(2) Risk of erroneous deprivation and the value of additional safeguards; and
(3) Government's interest.

*Id.* at 335. Each factor points decisively in one direction.

### 1. Petitioner's Interest in Freedom from Physical Confinement Is Profound

"Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Courts in this District have repeatedly recognized that re-detention after release deprives a noncitizen of an already-vested liberty interest. *E.A. T.-B. v. Wamsley*, 2025 WL 2402130, at *3 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, 2025 WL 2637663, at *3 (W.D. Wash. Sept. 12, 2025). That interest is particularly weighty where, as here, Petitioner had been living openly in the community in compliance with all government requirements.



**ROBBINS LAW, PLLC**
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

The D.C. Circuit has explained that "a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated." *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017).

Respondents' Return does not grapple with this interest. The first *Mathews* factor weighs heavily in Petitioner's favor.

2. Unilateral ICE Re-Detention Creates an Acute Risk of Error—Neutral Review Substantially Reduces That Risk

The risk of erroneous deprivation is substantial when ICE acts as investigator, prosecutor, and jailer—revoking liberty based on its own unreviewed determinations.

This Court has already identified that precise danger in a series of recent re-detention cases, holding that revocation of release without a pre-deprivation hearing presents an unacceptably high risk of error. *E.A. T.-B.*, 2025 WL 2402130, at *4–5; *Ramirez Tesara*, 2025 WL 2637663, at *3–4; *Kumar v. Wamsley*, 2025 WL 2677089, at *3–4; *Ledesma Gonzalez v. Wamsley*, 2025 WL 2841574, at *7–9 (W.D. Wash. Sept. 29, 2025).

The Ninth Circuit has similarly recognized that DHS's internal custody assessments are not an adequate substitute for neutral adjudication. *Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011).

Petitioner's case illustrates the problem. ICE provided no contemporaneous explanation for re-detention, no assessment of flight risk or danger, and no opportunity for Petitioner to contest the deprivation before it occurred. A neutral hearing would materially reduce the risk of error.



**ROBBINS LAW, PLLC**
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

3. The Government's Interest Does Not Justify Dispensing with Fundamental Process

The government's interest in enforcing the immigration laws does not depend on abandoning constitutional safeguards. Immigration custody hearings are routine, administratively modest, and already embedded in the system. See *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019); *Doe v. Becerra*, 2025 WL 691664, at *6 (E.D. Cal. Mar. 3, 2025).

Nothing in Petitioner's history suggests that a brief, pre-deprivation hearing would have impaired removal efforts or public safety. To the contrary, such a hearing would have avoided unlawful detention altogether.

All three *Mathews* factors converge: due process required a pre-deprivation hearing before a neutral adjudicator at which Respondents bore the burden of justification. Respondents provided none.

## III. Respondents' Effort to Minimize Petitioner's Detention Misstates Both the Record and *Zadvydas*

Respondents characterize Petitioner as detained for "four months." That framing is artificial.

Petitioner has been continuously re-detained since June 6, 2025. As of briefing, he has been in Respondents' custody for approximately 213 days. Zadvydas does not authorize slicing detention into convenient segments to evade constitutional scrutiny.

The Supreme Court held that detention under § 1231(a)(6) is limited to the period "reasonably necessary to bring about removal." 533 U.S. at 689. Six months is presumptively reasonable—but courts widely treat that period as cumulative in re-detention cases absent intervening violations or changed circumstances. See *Nguyen v. Scott*, 2025 WL 2419288, at *13 (W.D. Wash.); *Siguenza v. Moniz*, 2025 WL 2734704, at *3 (D. Mass.).



ROBBINS LAW, PLLC
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

Respondents cite no authority permitting indefinite detention by arithmetic.

## IV. Removal is Not Reasonably Foreseeable, and Continued Detention is Arbitrary

Once detention exceeds the presumptive period, the burden shifts when the noncitizen provides good reason to believe removal is not reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. Respondents concede they "do not yet have a specific date of anticipated removal."

They identify no actual confirmation of a country who has agreed to accept Petitioner, no timetable, and no concrete diplomatic commitment—only speculative possibilities.

Courts have repeatedly rejected the kind of speculative assertions Respondents advance here as insufficient to establish that removal is "reasonably foreseeable." In *Escalante*, the government failed to meet its burden where it offered only "conclusory statements that they [had taken] steps to remove [the petitioner] to Mexico or perhaps Canada," explaining that "[a] remote possibility of an eventual removal is not analogous to a significant likelihood that removal will occur in the reasonably foreseeable future." 2025 WL 2206113, at *4 (E.D. Tex. Aug. 2, 2025). *Balouch* reached the same conclusion where the government relied on bare declarations that it was merely "taking steps" to remove the petitioner to Iran. 2025 WL 2871914, at *3. And *Roble* likewise held that "the bare fact that ICE officials . . . requested third-country removal assistance" did not satisfy *Zadvydas*'s requirement of changed circumstances demonstrating a significant likelihood of removal. 2025 WL 2443453, at *4.

Respondents' showing here is even thinner. They have identified only hypothetical countries of possible removal, without confirmation that any country has agreed to accept Petitioner, without a timeline, and without describing any concrete diplomatic progress. To the contrary, Respondents expressly admit that the Government "does not yet have a specific date of



**ROBBINS LAW, PLLC**
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

anticipated removal." Dkt. 15 at 6. That admission alone cuts directly against the contention that removal is reasonably foreseeable.

Nor does Respondents' theory improve when their argument is taken to its logical conclusion. Suggesting that Petitioner might someday be removed to some as-yet-unidentified country—one that has not agreed to accept him and where the government's own decision would trigger additional administrative litigation during which removal is barred—does not establish a "significant likelihood" of removal in the reasonably foreseeable future. It underscores the absence of such a prospect.

Indeed, Respondents concede that even if they were to finalize a third-country designation, removal could not proceed immediately. By Respondents' own admission, Petitioner would be entitled to initiate a new administrative process challenging removal to that country, and "ERO will not attempt to remove him if a motion to reopen is pending." Dkt. 15 at 6; see also Dkt. 15 at 2. That process itself would be subject to further review and appeal. Thus, even under Respondents' own framework, removal depends on multiple contingent steps that have not occurred and cannot occur simultaneously.

Detention that is no longer tethered to a realistic prospect of removal is arbitrary under the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Where, as here, removal remains speculative, contingent, and expressly stayed by the government's own procedures, continued detention exceeds constitutional limits.

## V. The Court May Grant Relief Without Intruding on D.V.D.

The extent of Respondents' reliance on *D.V.D.* is misplaced. Petitioner does not seek to relitigate the stayed injunction or obtain classwide relief. He seeks individual habeas relief from



ROBBINS LAW, PLLC
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523

unlawful detention and the denial of basic procedural protections—a claim squarely within this Court's jurisdiction and independent of the class action posture.

## VI. Habeas Relief Is Warranted

Because Respondents re-detained Petitioner without constitutionally required process, because detention has exceeded the presumptively reasonable period, and because removal is not reasonably foreseeable, the Court should grant the writ and order Petitioner's immediate release, with prospective relief ensuring that any future attempt at re-detention complies with due process.

## CONCLUSION

The Due Process Clause does not permit Respondents to re-detain Petitioner—after years of established liberty in the community—without notice and a pre-deprivation hearing before a neutral decisionmaker at which ICE must justify the deprivation of liberty by individualized findings. Petitioner was seized on June 6, 2025, and has remained detained since, without the basic procedures the Constitution requires at the moment liberty is revoked. The Court should grant the writ, order Petitioner's immediate release, and enter prospective relief declaring that Petitioner's re-detention without a neutral, pre-deprivation individualized determination violates the Due Process Clause.

Dated: January 5, 2026

/s/ STEPHEN ROBBINS
Stephen Robbins WSBA No. 53398
Stephen@robbinsimmigration.com
ROBBINS LAW, PLLC
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523
Counsel for Petitioner

**WORD COUNT CERTIFICATION**

I, Stephen Robbins, certify that this traverse and response contains 2,677 words, in compliance with the Local Civil Rules.

/s/ STEPHEN ROBBINS
Stephen Robbins WSBA No. 53398
Stephen@robbinsimmigration.com
ROBBINS LAW, PLLC
6 S 2nd Street, #1002
Yakima, WA 98901
(509) 823-4523