UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

M-Z-H-,

Petitioner,

v.

LAURA HERMOSILLO, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of U.S. Immigration Customs Enforcement ("ICE"); KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS"); PAMELA BONDI, Attorney General of the United States; BRUCE SCOTT, Warden, Northwest ICE Processing Center ("NWIPC"); ICE; and DHS.

Respondents.

Case No.: 2:25-cv-02523-KKE

Agency No. [redacted]

PETITIONER'S RESPONSE-TRAVERSE ISO PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING REQUESTED

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PETITIONER'S TRAVERSE ISO PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner M-Z-H- complied with every condition of his release for nearly two years, building a life with his family while pursuing his legal right to seek asylum based on his prior work [redacted] On November 11, 2025,[1] as part of an ongoing quota-driven dragnet, Respondents arrested and detained Petitioner without warning or process. Respondents made no individualized custody determination before transferring him to a detention center in Tacoma, Washington, over 150 miles away from his home, community, and legal representation in Portland. Even now, over one month into his detention, Respondents have yet to provide any lawful basis for his detention.

RESPONDENTS' POSITION

Respondents' position, as expressed in their return memorandum, is that they possessed limitless discretion to revoke Petitioner's near-two-year grant of liberty. Respondents maintain that they can lawfully detain Petitioner without a hearing or a contemporaneous justification, based on conclusory allegations, and by misapplying the mandatory detention statute 8 U.S.C. §1225(b), which does not govern his custody. Yet, the Due Process Clause prohibits such lawless action, and the U.S. Constitution could not speak more clearly: "No person shall be . . . deprived of life, liberty, or property, without due process of law". U.S. Const. amend. V.

Petitioner did not violate the terms of his release, and Respondents have not provided admissible evidence that he did. By revoking Petitioner's release without a hearing, Respondents violated his due process rights under 8 U.S.C. §1226(a), as this Court held in *E.A.T.-B. v.*

[1] Petitioner alleged, upon information and belief, that his arrest occurred on November 12, 2025, whereas, Respondents indicate that the arrest occurred on November 11, 2025. This discrepancy is immaterial to the legal issues presented. For purposes of this briefing, Petitioner relies on the November 11, 2025, date.

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Wamsley, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug. 19, 2025). Respondents' application of §1225(b) to a person in standard removal proceedings is a fundamental misapplication of law. Moreover, even if they did have any admissible evidence, Respondents' justification for Petitioner's detention is pretextual and contradicted by their own conduct and nine-month delay in enforcement. Petitioner's practically impeccable compliance with his reporting conditions plainly indicate he is not a flight risk. Petitioner's ongoing detention is unlawful for each of these independent reasons. Therefore, the Court should grant his Petition for Writ of Habeas Corpus.

ARGUMENT

I. Respondents' Revocation of Petitioner's Release Was Unlawful

A. Petitioner did not violate the terms of his release.

The conditions of Petitioner's release are set forth in the Form I-220A, Order of Release on Recognizance ("ORR"). Petr's Decl., Ex. B (Dkt. 3). That release order specified only six conditions with which the Petitioner was required to comply: [1] report for any hearing or interview as directed by the Department of Homeland Security ("DHS) or the immigration court; [2] surrender for removal from the United States if so ordered; [3] report in person as indicated on the attached OREC G-56; [4] refrain from changing his place of residence without first securing written permission from DHS; [5] refrain from violating any local, state, or federal laws or ordinances; and [6] assist DHS in obtaining any necessary travel documents. *Id.*

Petitioner complied with every condition of his release order. Petr's Decl., (Dkt. 3) ¶¶ 25. He appeared for all scheduled immigration court hearings and reported for his DHS interviews. *Id.* ¶¶ 13, 25. He never changed his residence without permission. Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶¶ 4-6, 21. He committed no crimes and remained in constant contact with

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DHS. Indeed, Petitioner's conduct went beyond mere compliance. When a court hearing conflicted with a scheduled ICE check-in, Petitioner notified ICE in advance and appeared in person at the local field office the same day to resolve the issue. Petr's Decl., (Dkt. 3) ¶¶ 17-19. Then, when a medical emergency caused him to miss a remote check-in, he took active steps to resolve any issue by providing proof of his reason for absence to ICE the following day. *Id.* ¶¶ 20, 23-25. From the date of his release, ICE has provided Petitioner explicit assurance on multiple occasions that he remained in compliance with his release order. *Id.* ¶¶ 19, 24, 25; Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶ 27.

B. Petitioner did not miss a February 2025 Alternatives to Detention ("ATD") biometrics check-in.

Petitioner did not miss the February 20, 2025, ATD biometrics check-in, as alleged by Respondents. *Id.* ¶ 25. Petitioner has submitted to the Court a detailed and credible accounting of his compliance with the ATD program and has no recollection of ever missing an ATD check-in around this time. Petr's Decl., (Dkt. 3) ¶¶ 16-25; Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶ 23-26. In the nine months that passed between Petitioner's alleged missed ATD check-in, Respondents never mentioned anything to Petitioner regarding his alleged missed ATD check-in. Id. ¶ 25. To the contrary on multiple occasions between February and Petitioner's unlawful detention in November, ICE officers repeatedly confirmed to Petitioner that he was sufficiently complying with his order of release. Petr's Decl., (Dkt. 3) ¶¶ 19, 24, 25; Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶ 27.

Respondents' February 2025 allegation is further undermined by Respondents' recent attempt to manufacture evidence of it. On December 17, 2025, mere hours after submitting their Return Memorandum, an officer at the Northwest ICE Processing Center approached Petitioner without notifying his counsel. Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶ 29-32.

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The officer pressured Petitioner to sign a document admitting that he had missed a February 2025 check-in. *Id.* ¶ 30. As this was not true, Petitioner attempted to gather more details about the exact date. *Id.* However, the officer denied providing more information unless Petitioner signed the document. *Id.* Petitioner requested to consult his attorneys; however, his request was denied. *Id.* ¶ 31. Petitioner rightly refused to sign. *Id.* This striking attempt to coerce Petitioner's agreement to an uncorroborated false allegation demonstrates that Respondents lack credible evidence of *any* violation. If a clear violation had occurred and been logged nine months prior, there would be no need for such a coercive effort to manufacture a record during litigation.

For nearly two years, Petitioner's actions demonstrated a pattern of diligent compliance, not violation. Even if the ATD allegation were credible – which it is not – Respondents' separate claim regarding Petitioner's residence also fails.

C. Petitioner never violated his release order's condition on changing residence.

Respondents also claim that Petitioner, "moved to Portland, Oregon, without informing ICE, which was a violation of his OREC" is baseless. Arambula Decl., (Dkt. 13) ¶ 7. The release order's fourth condition requires advance permission to "change" residence, but this provision presupposes an initial, authorized residence from which to move. Petr's Decl., Ex. B (Dkt. 3). The condition on changing residence is inapplicable here.

Petitioner has resided in Portland, Oregon since his arrival. Upon entry to the U.S., he provided border officials a Portland address, where his wife and children lived. Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶ 4. When Petitioner was processed at the detention center near his point of entry of Calexico, CA, he was instructed to provide the addresses and names of any family members he had in the United States. *Id.* ¶ 4-5. Petitioner complied and provided the address of the refugee welcome center in Portland, OR where his wife and children were

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residing. *Id.* Respondents were aware of this fact prior to Petitioner's release as on both the NTA and OREC G-56, there was no home address listed, instead the documents stated: "Failed to Provide Address EOIR-33 Docket Sacramento, California 94203." Petr's Decl., Ex. A (Dkt. 3); Petr's Decl. ISO Pet. for Writ of Habeas Corpus, Ex. A. At no point during Petitioner's initial detention did he ever express that his residence was anywhere within the state of California, nor did he ever express any intention to remain. Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶ 6. At every opportunity, Petitioner made clear his intention to reunite with his family in Portland. *Id.* Furthermore, Respondents did not identify any prior authorized residence for Petitioner, because none exists.

Petitioner was released from DHS custody on December 11, 2023, and dropped off by officers at a transition center for detainees. *Id.* ¶ 15-16. Within only a few days, Petitioner arranged his travel plans to Portland and reunited with his wife and on December 15, 2023. *Id.* ¶ 19. Later, he proactively reported to ICE for an in-person appointment on January 8, 2024. *Id.* ¶ 20. At this first ICE appointment, Petitioner again provided his Portland address and was enrolled in the Alternatives to Detention ("ATD") program. *Id.* ¶ 21.

ICE's conduct ratified Petitioner's Portland residence. By enrolling him in ATD using his Portland address – without citing a violation, demanding Petitioner's relocation, nor seeking to revoke Petitioner's release – ICE treated Portland as his proper residence. Respondents cannot now, two years later retroactively manufacture a "change" in residence violation from a condition that was never triggered.

D. Petitioner's release order did not explicitly require compliance with the ATD smartphone application, and Petitioner complied with its terms.

The ATD smartphone application and its check-in requirements were not conditions of Petitioner's release. Petr's Decl., Ex. B (Dkt. 3). The operative order of release lists six

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exhaustive conditions. *Id.* None mention a smartphone application, remote biometric check-ins, or the ATD program. *Id.* Indeed, the only mention to ATD mandates that Petitioner report for "consideration for enrollment." Petr's Decl. ISO Pet. for Writ of Habeas Corpus, Ex. A. Petitioner fulfilled this one-time duty. The order did not incorporate ATD's subsequent administrative rules. Yet, revocation of liberty requires a breach of the release order itself, not a violation of unilaterally imposed agency procedures. *See E.A.T.-B.*, 2025 WL 2402130 at *4.

In any event, Petitioner diligently complied with the ATD program. He consistently used the application and provided ICE immediate notice and documentation for his only two missed check-ins, due to a court conflict and medical emergency. Petr's Decl., (Dkt. 3) ¶¶ 17-19, 20, 23-25. Petitioner repeatedly received explicit assurances from ICE officers that he remained in compliance. *Id.* ¶¶ 19, 24, 25; Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶ 27. Respondents' new, uncorroborated allegation of a missed check-in on February 20,2025, contradicts ICE's own prior assurances. As shown below, this allegation lacks evidentiary support. Therefore, the ATD smartphone application and its requirements provide no valid basis for the revocation of Petitioner's release.

II. Respondent's Position Fails for Lack of Evidence

E. The Federal Rules of Evidence apply in proceedings under 28 U.S.C. § 2241.

The Federal Rules of Evidence generally apply in proceedings under 28 U.S.C. § 2241. Federal Rule of Evidence 1101 states that the Rules govern "civil cases and proceedings," and then lists several exceptions, none of which includes habeas proceedings. Fed. R. Evid. 1101(b), (d). Subsection (e) then clarifies that another statute or set of rules "may provide for admitting or excluding evidence independently from these rules." Fed. R. Evid. 1101(e). That exception also does not apply, as federal habeas rules do not displace the Rules of Evidence. Significantly, the

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comment to Rule 1101 clarifies that "[t]he rule does not exempt habeas corpus proceedings." Fed. R. Evid. 1101 advisory committee's note to subdivision (d). Consistent with this reading, the Supreme Court has applied the Federal Rules of Evidence to determine admissibility in a habeas proceeding. *See, e.g., Amadeo v. Zant*, 486 U.S. 214, 227 n.5 (1988). By their plain text, the Rules make clear that they apply in full force in the present case, thus, governing the admissibility of Respondents' proffered evidence

F. Deportation officer Gabriel Arambula's declaration is inadmissible hearsay and violates the best evidence rule.

Respondents rely entirely on the declaration of ICE deportation officer Gabriel Arambula. *See generally* Arambula Decl., (Dkt. 13). Arambula's declaration is almost entirely hearsay and violates the best evidence rule, as it is replete with out-of-court statements offered for the truth of the matter asserted in the statement. *See* Fed. R. of Evid. 801(c); *see also United States v. Lucas-Hernandez*, 102 F.4th 1039, 1043 (9th Cir. 2024).

While an opposing party's out of court statements are generally not hearsay, *see* Fed. R. Evid. 801(d)(2), the witness testifying to those out of court statements must have personal knowledge of them. *See* Fed. R. Evid. 602; *cf. Lucas-Hernandez,* 102 F.4th at 1043–44 (considering whether Border Patrol Agent's testimony was admissible when he relied on interpreter to testify to opposing party's statements); *Rivas v. Napolitano*, 714 F.3d 1108, 1116 (9th Cir. 2013) (Bea, J., concurring in part and dissenting in part) (explaining that a witness must have personal knowledge of opposing party's statements when testifying). The comment to Rule 602 explicitly explains,

> This rule does not govern the situation of a witness who testifies to a hearsay statement as such, if he has personal knowledge of the making of the statement. Rules 801 and 805 would be applicable. This rule would, however, prevent him from testifying to the subject matter of the hearsay statement, as he has no personal knowledge of it.

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Fed. R. Evid. 602 advisory committee's note. When a statement contains "double hearsay" (two out-of-court statements that each qualify as hearsay), each statement must qualify under some exception to the hearsay rule. *See* Fed. R. Evid. 805; *see also, e.g., United States v. Arteaga*, 117 F.3d 388, 396 n.12 (9th Cir. 1997).

The best evidence rule provides that "[a]n original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise." Fed. R. Evid. 1002. "The rule is the familiar one *requiring* production of the original of a document to prove its contents[.]" Fed. R. Evid. 1002 advisory committee's note (italics added). In other words, a declarant cannot simply assert what a document contains where that document itself can "prove its content." *Id.; accord, e.g., United States v. Valdovinos-Mendez*, 641 F.3d 1031, 1035 (9th Cir. 2011) (finding the best evidence rule does not apply when an immigration official testifies as to the lack of records, and noting that this differs from testimony where the "[a]gent . . . testif[ies] to the contents of the records sought to be proved," in which case the rule applies).

Application of the Federal Rules here is straightforward and fatal to Petitioner's evidence. Arambula, an ICE deportation officer stationed in Tacoma, Washington, concedes he lacks personal knowledge of the underlying events, stating his declaration is based on "various records and systems maintained by ICE." Arambula Decl., (Dkt. 13) ¶ 2. He then testifies to the contents of those unproduced records concerning events in Portland, Oregon.

First, Arambula asserts that on February 20, 2025, "ERO logged the ATD violation having determined Petitioner intentionally missed the check-in." *Id.* ¶ 9. This is double hearsay: [1] the out-of-court "log" entry, and (2) the out-of-court determination of an unnamed ERO

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official. Respondents provide no hearsay exception for either point and have produced no original log or determination.

Second, Arambula states that, "Petitioner's OREC was revoked pursuant to the ATD violation which violated the conditions of his release." *Id.* ¶ 11. This asserts the contents of a revocation order. The best evidence of the revocation's basis and authority would be a revocation order itself. Fed. R. Evid. 1002. However, Respondents provide no copy of a revocation document.

Third, Arambula claims Petitioner "moved to Portland Oregon, without informing ICE" in January 2024. *Id.* ¶ 7. As an officer physically based in Tacoma in late 2025, Arambula has no personal knowledge of this past event. His statement relies on out-of-court records offered for their truth. No original records (e.g. address history records) are provided.

At each substantive allegation, Arambula "testif[ies] to the contents of the records sought to be proved" without producing them, directly violating the best evidence rule. *Valdovinos-Mendez*, 641 F.3d at 1035. Because Respondents have failed to produce the underlying original records – the ATD violation log, the revocation order, or any documentary evidence of the alleged residential move – Arambula's declaration cannot satisfy their burden to present admissible evidence justifying the deprivation of Petitioner's liberty.

G. The Court should strike the inadmissible portions of Arambula's declaration.

Petitioner asks the Court to strike paragraphs 2, 7, 9, and 11 of Arambula's declaration. These paragraphs contain the operative facts upon which Respondents rely, and each is inadmissible for the reasons previously stated. Without them, Respondents have submitted no admissible evidence to support their claim that Petitioner violated his release conditions. The assertions of counsel are not evidence. *See United States v. Combs*, 379 F.3d 564, 575 (9th Cir.

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2004) (referencing the "standard jury instructions" that "statements and arguments of counsel [are] not evidence").

III. Respondents' Revocation Without a Hearing was Arbitrary and Violated Due Process.

Respondents' only legal authority to deprive an individual of liberty is delegated by Congress through the Immigration and Nationality Act ("INA"). This statutory custody authority must be read against the backdrop of the U.S. Constitution. *United States v. Witkovich,* 353 U.S. 194, 202 (1957) (affirming "cardinal principle" that statutes must be read in accordance with Constitution); *United States v. Butler*, 297 U.S. 1, 62 (1936) ("The Constitution is the supreme law of the land . . . All legislation must confirm to the principles it lays down."); *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) (limiting statutory custody authority for post-removal order detention because it must be "read in light of the Constitution's demands"). "No person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const. amend V. It is well-established that the Due Process Clause of the Fifth Amendment applies to "all 'persons' within the United States," irrespective of their immigration status. *See J. G. G.*, 145 S. Ct. 1003, 1005 (2025) (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)); *Zadvydas*, 533 U.S. at 693. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Due process also requires notice and "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)); *Jimenez v. Bostock*, 2025 WL 2430381, at *6 (D.Or. Aug. 22, 2025).

As alleged in Count One of the Petition, Respondents thus deprived Petitioner of his fundamental right to due process by revoking his near-two-year release and re-detaining him without any notice or opportunity to be heard.

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A. Respondents were legally required to provide Petitioner a pre-revocation hearing under *Mathews* and *E.A.T.-B.*

When the government seeks to deprive an individual of a protected liberty interest, courts apply the balancing test from *Mathews v. Eldridge*, 424 U.S. at 335. As this Court explained in *E.A. T.-B.*, the three-factor *Mathews* test is the controlling framework for determining what process is due. *E.A. T.-B.*, 2025 WL 2402130, at *3. *Mathews* requires the Court to evaluate (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguard" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335; *see also* Order Granting Mot. for Temp. Restr. Order, *Ramirez Tesara v Wamsley*, 2:25-cv-01723-MJP-TLF (W.D. Wash. Sept. 11, 2025), Dkt. 19 at 5–9 (hereinafter Ramirez Tesara, Dkt. 19) (applying Mathews factors to assess right to pre-deprivation hearing); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (same); *Morrissey v. Brewer,* 408 U.S. 471, 482–84 (1972) (assessing parolee's liberty interests and the state's interests to assess what process is due a parolee).

All three Mathews factors compel the same conclusion here. First, Petitioner's private interest in continued liberty is paramount. "Freedom from imprisonment . . . lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. This interest is at paramount for an individual like Petitioner, who was integrated into his community, gainfully employed, and supporting his family for nearly two years after an initial, favorable custody determination. *See E.A.T.-B.*, 2025 WL 2402130, at *4.

Second, "the risk of erroneous deprivation of [Petitioner's] liberty interest in the absence of a pre-detention hearing is high." *Id.* Here, Petitioner received neither notice nor an opportunity

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to be heard before he was deprived of his liberty. Petr's Decl., (Dkt. 3) ¶¶ 28-44 (describing his arrest and detention). Respondents' failure to provide notice in such circumstances violates the Due Process clause because it "deprive[d] [Petitioner] of any way to meaningfully contest the basis for [her] detention." *See Martinez v. McAleenan*, 385 F. Supp. 3d 349, 359-60 (S.D.N.Y. 2019) (granting a habeas writ where the Petitioner was denied the proper notice in the context of reinstatement of removal). Indeed, the right to be heard "has little reality or worth unless one is informed that the matter is pending" and can then choose how to respond. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *accord* United States v. Rivera-Valdes, No. 21-30177, 2025 WL 2672555, at *12 (9th Cir. Sept. 18, 2025) (en banc) (applying, to the immigration context, *Mullane*'s requirement that notice must be "reasonably calculated" to provide a meaningful opportunity to appear and contest the charges). Had Respondents provided Petitioner a pre-deprivation hearing, they would have been compelled to conclude that Petitioner's facts and circumstances did not present any lawful basis for detention. *Zadvydas*, 533 U.S. at 690 (explaining that "government detention violates [the Due Process] Clause" in civil proceedings, including immigration proceedings, unless there is "a special justification, such as harm-threatening mental illness, [that] outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'") (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)); *see also Jackson v. Indiana*, 406 U.S. 715, 738 (1972) ("[D]ue process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed.").

Finally, Respondents have no legitimate interest in depriving Petitioner of his procedural rights. As it stands, the record shows that Respondents never conducted an individualized custody determination purporting to justify Petitioner's continued custody, as explicitly required

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by 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.3(d) – nor, necessarily, did they give Petitioner the opportunity to heard before such a decision was made. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and to prevent danger to the community. *See Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (noting that "the temporary detention of noncitizens may sometimes by justified by concerns about public safety or flight risk"); *Zadvydas*, 533 U.S. at 689 (the two goals of the INA's custody authority are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "[p]reventing danger to the community"); *see also* 8 C.F.R. § 236.1(c)(8) (requiring consideration of flight risk and dangerousness in custody determination under 8 U.S.C. § 1226(a)). Here, neither purpose of detention was satisfied.

Petitioner is not a flight risk. He has resided in Portland since his arrival, has a pending asylum claim, is the primary provider for his wife and children, and complied with all his reporting requirements for nearly two years. *See generally* Petr's Decl., (Dkt. 3); Petr's Decl. ISO Pet. for Writ of Habeas Corpus. Petitioner is not a danger to the community he has no criminal record and has consistently cooperated with ICE officials. The government cannot claim a compelling interest in immediately detaining someone based on months-old allegations it previously ignored. The minimal administrative burden of providing a hearing is outweighed by the profound risk to liberty.

B. The appropriate remedy for Respondents' due process violation here is release.

As this Court has held in multiple parallel cases, Petitioner's ongoing detention is unlawful, and his immediate release is required. *See E.A.T.-B.*, 2025 WL 2402130 at *6. (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate

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procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty"); *see also Phetsadakone v. Scott*, No. 2:25-CV-01678-JNW, 2025 WL 2579569, at *5 (W.D. Wash. Sept. 5, 2025) (ordering immediate release to secure status quo of liberty prior to alleged unlawful re-detention); *see also Ramirez Tesara*, Dkt. 19 (ordering immediate release to restore Petitioner to the status quo prior to his unlawful arrest without a hearing). A belated bond hearing cannot cure Petitioner's constitutional injury here, as it has already been inflicted. Thus, the Court should grant Petitioner's immediate release to remedy Respondents violation.

IV. Respondents' Application of §1225(b) to Petitioner is Unlawful.

Respondents contend Petitioner is subject to mandatory detention under 8 U.S.C. 1225(b) as an "applicant for admission." This is a fundamental legal error contradicted by the record and the relevant statutory scheme. Petitioner is in standard removal proceedings under §1229(a), governed by §1226(a). As alleged in Count Two of the Petition, applying §1225(b) to Petitioner is a violation of the INA and, therefore, unlawful.

A. Petitioner's custody is governed by §1226(a), not §1225(b).

Respondents' own documentary record forecloses their argument that the mandatory detention statute §1225(b) applies to Petitioner. The NTA charges Petitioner as inadmissible and places him in removal proceedings under §1229(a), not expedited removal under §1225(b). Petr's Decl., Ex. A (Dkt. 3). Here, the statutory scheme is clear: §1226(a) governs detention for individuals in §1229(a) proceedings. Subsection (c) creates "specific exceptions" to the default bond hearing under (a), including for those "inadmissible under section 1182(a)(6)(C) or 1182(a)(7)"—precisely Petitioner's charge. 8 U.S.C. §1226(c)(1)(E). "[W]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the

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statute generally applies." *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025). Petitioner is not subject to such exception; thus, §1226(a) governs.

Respondents claim that Petitioner's initial release was a "temporary parole" under §1225(b) is false. Petitioner's release order expressly cites its authority as section 236 of the INA, i.e., §1226(a). Petr's Decl., Ex. B (Dkt. 3). Importantly, Respondents did not issue Petitioner a parole document. Respondents cannot now, nearly two years later, retroactively misapply a mandatory detention statute to justify a detention that their own chosen procedures render inapplicable.

B. Federal courts have overwhelmingly rejected the government's misapplication of §1225(b).

Respondent's misapplication of law here is not a harmless error, but a deliberate litigation tactic that has been rejected by Courts nationwide. Dozens of federal courts have held that noncitizens in § 1229a proceedings are subject to § 1226(a), not § 1225(b). *See, e.g.*, *Maldonado Bautista v. Santacruz*, --- F. Supp. 3d ---, 2025 WL 3289861, at *14 (C.D. Cal. Nov. 20, 2025) (granting classwide injunction against this "novel and uniform policy"); *Gomes v. Hyde*, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 at *10 (D. Ariz. Aug. 11, 2025) .

Respondents' position is legally untenable. They are either (a) detaining Petitioner unlawfully under an inapplicable mandatory detention statute, § 1225(b), or (b) in violation of the due process requirements of the applicable statute, § 1226(a). Under either construction, Petitioner's detention is unlawful.

V. Respondents' Justification for Revocation Fails Because it is Pretextual

A. Petitioner's arrest was a quota-driven sweep, not an individualized enforcement action.

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Respondents' actions from the moment of Petitioner's arrest to his current detention belies any claim of an individualized, violation-based detention. Rather, it reveals a quota-driven operation untethered from Petitioner's specific circumstances and aligned with the Executive administration's publicly announced quota policy.

Petitioner was not apprehended pursuant to any review of his immigration file. He was surrounded by three SUVs and masked agents at a parking lot outside of his workplace, a location demonstrating his stable employment and routine. Petr's Decl., (Dkt. 3) ¶¶ 26-27. The arresting agents did not know Petitioner's identity, nor the reason for his arrest, asking him for his A-file number and offering contradictory justifications. *Id.* ¶¶ 33-40. This is not the hallmark of an enforcement action predicated on specific, known breach of conditions. It is the signature of a dragnet, prioritizing spectacle and volume over particularized cause.

Respondents ever-evolving rationale for Petitioner's arrest and detention confirms the absence of a genuine, contemporaneous basis for Petitioner's arrest and detention. The inescapable conclusion here is that the arrest was executed to satisfy a quota, and that Respondents supposed "violations" are litigation-born pretexts concocted after the fact.

B. Respondents' shifting and belated justifications for revocation fail against Petitioner's undisputed record of compliance.

Even if the Court considers Respondents' post-hoc rationale, it collapses under the weight of Petitioner's actual, documented history. For nearly two years, his conduct was the antithesis of a flight risk or danger, affirmatively disproving any conceivable lawful basis for detention.

Petitioner's life in Portland was a model of stability and compliance. He was gainfully employed, the primary provider for his wife and two school-age children and had no criminal record. *See generally* Petr's Decl., (Dkt. 3). Petitioner's adherence to reporting requirements was

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meticulous. On the only two occasions where he could not report as scheduled—once for a mandatory court hearing and once for a medical emergency—he proactively notified ICE, provided immediate documentation, and received explicit assurances from officers that he remained in full compliance. *Id.* ¶¶ 17-19, 20, 23-25. This pattern reflects diligence, not disregard.

Confronted with this record, Respondents' shifting justifications are not merely unsupported—they are irrational. The Supreme Court has recognized only two constitutionally permissible justifications for civil immigration detention: ensuring appearance at proceedings and protecting the community. *Zadvydas*, 533 U.S. at 690. Petitioner's undisputed history is a testament to both his appearance and his harmlessness. To detain him based on uncorroborated allegations that Respondents themselves ignored for nine months, while simultaneously assuring him of his compliance, renders the agency's action arbitrary on its face. An individualized determination cannot rest on a pretext that is directly contradicted by every relevant fact of the individual's life.

C. Respondents' pretextual and irrational agency action violates the Due Process Clause and the APA.

The confluence of Respondents' quota-driven sweep and their justifications, which are refuted by the record constitutes precisely the kind of arbitrary state action that the Constitution and APA forbid. Respondents' conduct here independently violates Petitioner's right to due process, as asserted in Count One, and constitutes arbitrary and capricious agency action under the APA, as asserted in Count Three.

The Fifth Amendment's guarantee of due process is "a shield against arbitrary government action." *See U.S. v. Salerno*, 481 U.S. 739, 746 (1987). Depriving an individual of liberty based on a roving operation untethered from his conduct, and on a rationale the agency

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itself must coerce him to adopt, is the epitome of arbitrariness. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Respondents' attempt to strong-arm Petitioner into signing a document confessing to the alleged February 2025 violation—while denying him details or access to counsel—exposes the flimsiness of their pretext. Petr's Decl. ISO Pet. for Writ of Habeas Corpus ¶¶ 30-31. An agency secure in its facts does not resort to such tactics. This coercive effort proves the alleged "violation" is a litigation construct, not a genuine basis for detention. Where the government's proffered reason is a pretext manufactured during habeas proceedings, the deprivation is constitutionally infirm. *See Dep't of Com. v. New York*, 139 S. Ct. 2551, 2575-76 (2019) (affirming finding of pretextual agency action).

Simultaneously, such action fails under the APA. The APA requires agency decisions to be non-arbitrary and based on relevant factors. 5 U.S.C. § 706(2)(A). Respondents' decision to revoke release—premised on shifting, belated excuses that ignore the actual record, and then bolstered by an attempt to extract a coerced confession—is action taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(D). The coercion incident is not a minor procedural lapse; it is direct evidence that the agency lacks a lawful, reasoned basis for its edict and is attempting to fabricate one.

Therefore, even if Respondents could surmount their other fatal defects, the pretextual and irrational nature of this revocation alone provides independent grounds for this Court to grant the Petition.

CONCLUSION

Respondents' detention of M-Z-H- is lawless. Their case rests on inadmissible hearsay, a shifting pretext, a fundamental misapplication of an immigration detention statute, and a blatant denial of due process. The record reveals not a single, credible justification for depriving a

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father, asylum seeker, and longtime member of the Portland community of his liberty. For the foregoing reasons, the Court should grant the writ of habeas corpus and order the remedy that "law and justice require" to protect Petitioner from this unlawful deprivation and restore his fundamental right to liberty. *See* 28 U.S.C. §2243.

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Respectfully submitted,

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