UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Yair Eduardo GRAJEDA Velazquez Petitioner, v. Cammilla WAMSLEY, Seattle Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement (ICE); et al., Respondents.	Case No. 2:25 cv 02641 **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS AND RESPONSE TO ANSWER** Noting Date: Jan. 7, 2026

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INTRODUCTION

This is a case about due process—specifically, the Constitution's demand that the government not revoke an individual's established liberty by unilateral fiat.

The petitioner lived in the community for over a year na da half after being released by DHS. He and his mother and siblings have been in constant contact with ERO and attended their hearing before an immigration judge on December 3. Nevertheless the respodnents called Mr. Grajeda into their office and arrested him when he complied. He remains detained at the Northwest ICE Processing Center.

The petitioners claim Mr. Grajeda has been delinquent on a number of occasions, failing to report his biometrics in the ISAP app. The petitioner denies these allegations insists that whenever there have been technical issues with the app he has reached out to ERO via the messenger function in the app.

Despite trying his best to comply, Mr. Grajeda was detained in December and has remained in the respondent's custody since that time. He was not provided written notice or the chance to present his case before a neutral decisionmaker to determine whether re-detention was warranted based on individualized findings of flight 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.

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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).

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.

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 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.

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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).

The petitioner's experience fits squarely within this framework. He lived in the community for a year and a half without incident and did his best to comply with all the conditions set by respondents. Whenever there was an issue he would reach out to communicate with ERO. Nevertheless, he was detained and remains in custody.

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,

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Petitioner had been living openly in the community in compliance with all government requirements.

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. They cut off access to communication records which may have established compliance. A neutral hearing would materially reduce the risk of error.

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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.

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 in early December, 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: Tuesday, January 7, 2026

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