

DETAINED

The Honorable Theresa L. Fricke

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

KAE A. SAELEE,

Petitioner,

v.

PAMELA BONDI, *et al.*;

Respondents.

CASE NO.: 2:25-cv-02677-TLF

PETITIONER'S SUPPLEMENTAL BRIEF

NOTED FOR CONSIDERATION:
January 26, 2026

PETITIONER'S SUPPLEMENTAL BRIEF

A. Introduction.

The Court ordered the petitioner, Kae A. Saelee, to file a supplemental brief "analyzing his Fifth Amendment due process claim concerning arrest and detention and Section 2241 habeas corpus remedies under the *Mathews* framework." Dkt. 10. Mr. Saelee filed his traverse on January 12, 2026, and included full briefing on Due Process and habeas corpus remedies.

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(CASE NO. 2:25-cv-02677-TLF)

1 Dkt. 11. He has no additional argument to offer as a supplement, so to comply with the
2 Court's order, he offers the following from his traverse.

3
4 **B. The detention violates Mr. Saelee's Due Process rights.**

5 As to the third claim for relief, even if the government had complied with the
6 procedures in 8 C.F.R. § 241.13, those procedures would not provide sufficient protections to
7 comply with Due Process:

8 Those meager procedures do not, however, provide the process due under the
9 Fifth Amendment, which prohibits the federal government from depriving any
10 person of "life, liberty, or property, without due process of law[.]"...[T]he
government action at issue here is at the core of the liberty protected by the Due
Process Clause....

11 *Khim v. Bondi*, 2025 U.S. Dist. LEXIS 261018, *10-11 (W.D. Wash. December 17, 2025);
12 Dkt. 1, at 8. Because the government has not complied even with the "meager procedures" of
13 the regulation, *a fortiori* it is also in violation of the greater requirements of Due Process.

14
15 **1. Mathews applies in this context.**

16 *Mathews v. Eldridge*, 424 U.S. 319 (1976), sets out the applicable test for assessing
17 whether the government has violated Due Process. Although the Ninth Circuit has not yet
18 decided whether *Mathews* applies in an immigration context, it has assumed it does.
19 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022). Most other circuits have
20 found that the *Mathews* test applies in an immigration context. *Pinchi v. Noem*, 792 F. Supp.

3d 1025, 1033 n.2 (N.D. Cal. Jul. 24, 2025) (collecting cases); *see also*, *Gayle v. Warden Monmouth Cty. Corr. Inst.*, 12 F.4th 321, 331 (3rd Cir. 2021); *Gaye v. Lynch*, 788 F.3d 519, 532 (6th Cir. 2015); *Parra v. Perryman*, 172 F.3d 954, 958 (7th Cir. 1999). One circuit has found that it does not apply, and the remaining circuits have not addressed the issue. *Banyee v. Garland*, 115 F.4th 928, 933 (8th Cir. 2024) ("*Zadvydas* and *Demore* [*Demore v. Hyung Joon Kim*, 538 U.S. 510 (2003)] have already done whatever balancing is necessary.") Several district courts in the Ninth Circuit have also applied *Mathews* in an immigration context. *See e.g.*, *Amandeep Singh v. Albarran*, 2026 U.S. Dist. LEXIS 4335, *12 (E.D. Cal. Jan. 9, 2026); *Ayala v. Henkey*, 2025 U.S. Dist. LEXIS 268011, *11 (Ida. Dec. 29, 2025); *Momtazian v. Noem*, 2025 U.S. Dist. LEXIS 266022, *5 (C.D. Cal. Dec. 25, 2025); *Pardeep Sharma v. Casey*, 2025 U.S. Dist. LEXIS 262089, *6 (S.D. Cal. Dec. 18, 2025); *S-M-J v. Bostock*, 2025 U.S. Dist. LEXIS 221108, *12 (Ore. Nov. 10, 2025); *Gomez v. Doe*, 2025 U.S. Dist. LEXIS 230946, *30 (Ariz. Oct. 31, 2025); *Sequen v. Kaiser*, 2025 U.S. Dist. LEXIS 181837, *14 n. 4 (N.D. Cal. Sep. 16, 2025). Mr. Saelee urges this Court to apply the *Mathews* test here.

2. Mathews requires a pre-detention hearing.

The *Mathews* test is as follows:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

1 *Mathews*, 424 U.S. at 335.

2 First, as to the private interest, Mr. Saelee has suffered more than two months in
3 detention, and freedom from detention is “the most elemental” of private interests. *Hamdi v.*
4 *Rumsfeld*, 542 U.S. 507, 529 (2004); *see Zadvydas*, 533 U.S. at 690. His liberty interest is
5 strengthened by the fact that the government permitted him to remain in the community for
6 more than 28 years since the removal order became final and more than 14 years since he was
7 placed on supervision. In that time, Mr. Saelee married and cared for his stepdaughter, gaining
8 a foothold and developing ties to the United States. *See, Sequen v. Kaiser*, 2025 U.S. Dist.
9 LEXIS 181837, *12 (N.D. Cal. Sept. 16, 2025). His mother and sister are in the United States,
10 and he helps care for his in-laws. Mr. Saelee’s private interest is substantial and elemental, so
11 the first *Mathews* factor favors him.

12 Second, there is a high risk of erroneous deprivation of his liberty interest, for several
13 reasons. The revocation order itself contains a material falsehood—that his case was under
14 “current review” by Laos. Dkt. 8-1, at 2. There is no evidence that Laos yet has any
15 paperwork concerning Mr. Saelee, and it is unknown when—or whether—it might eventually
16 issue travel documents. Also, Mr. Saelee has proven he is not a flight risk by presenting
17 himself for all ICE check-ins for 15 years, in addition to forming deep family and personal
18 ties in this country since entering in 1988. Whether he is a threat to community safety depends
19 on his criminal history. Mr. Saelee has no recent history, and the government has not
20 presented any older history, other than a vague reference to the convictions that led to his
21

1 removal proceedings in 1994. Counsel for Mr. Saelee has not yet been able to obtain his FBI
2 record. And finally, Mr. Saelee has multiple grounds for a motion to reopen, including legal
3 improprieties in his original criminal proceedings and, independently, eligibility for a waiver
4 under former 8 U.S.C. § 1182(c) (INA § 212(c)). Counsel also has information, as yet
5 unverified, that his crimes have now been vacated, or that they can no longer justify removal
6 even if they are still in effect. For all of these reasons, Mr. Saelee is at high risk of being
7 deprived of his liberty even though he is likely not removeable.

8 As to the third *Mathews* factor, the government has little interest in keeping Mr. Saelee
9 detained. With no substantial likelihood of removal, his detention is only an expense to the
10 government and an ongoing tearing of the fabric of the community to which he belongs. If
11 Mr. Saelee is released and the government eventually determines that it can in fact remove
12 him, it would face only a minimal burden in holding a hearing to determine the propriety of
13 detention. Mr. Saelee has shown that he is diligent in appearing when required by the
14 government. Therefore, all three *Mathews* factors show that by detaining Mr. Saelee, the
15 government has violated—and continues to violate—his Due Process rights.

16
17 **3. The required Due Process protections.**

18 Mr. Saelee asks that if he is released and the government later seeks to redetain him,
19 that a hearing be held, before detention occurs, in the Immigration Court, with adequate notice
20 to appear and to secure counsel's appearance. He further asks that the government bear the

1 burden to show, by clear and convincing evidence, that travel papers have been obtained, that
2 removal will occur within three days of detention, and that Mr. Saelee is either “a risk to the
3 community or unlikely to comply with the order of removal.” 8 U.S.C. § 1231 (a)(6).

4
5 I certify that this memorandum contains 1,215 words, in compliance with the Local Civil
6 Rules.

7 Dated this 15th day of January, 2026.

8 /s/ Kelly Vomacka

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