

The Honorable Kymberly K. Evanson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SILA YILDIRIM,

Petitioner,

v.

LAURA HERMOSILLO,¹ Acting Seattle Field
Office Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE); BRUCE
SCOTT,² Warden, Northwest ICE Processing
Center; KRISTI NOEM, Secretary, United
States Department of Homeland Security;
PAMELA BONDI, United States Attorney
General; UNITED STATES DEPARTMENT
OF HOMELAND SECURITY,

Respondents.

Case No. 2:25-cv-02696-KKE

FEDERAL RESPONDENTS'
RETURN

Noted for Consideration:
January 20, 2026

¹ Laura Hermosillo is the Acting Field Office Director for ICE/ERO's Seattle Field Office and, pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, is hereby substituted as Respondent for Camilla Wamsley.

² Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 **I. INTRODUCTION**

2 Noncitizens apprehended at the border and placed in removal proceedings under 8 U.S.C.
3 § 1225(b)(1) “shall be detained” for the duration of those proceedings. Despite this command, U.S.
4 Immigration and Customs Enforcement (ICE) exercised its discretion to grant Petitioner parole
5 into the United States during her removal proceedings. She is lawfully detained during the
6 expedited removal process and while her asylum claim is pending. Petitioner’s habeas petition
7 should be denied. Congress has mandated detention under 8 U.S.C. § 1225(b) and denied notice
8 for parole revocation, expressly foreclosing Petitioner’s claim that she is entitled to a hearing
9 where the government must prove that she is a flight risk or a danger before her parole is revoked.
10 *See Zapata v. Chestnut*, 2025 WL 3687643, at *3-4 (E.D. Cal. Dec. 19, 2025).³

11 **II. BACKGROUND**

12 **A. 8 U.S.C. § 1225(b)**

13 Petitioner is an applicant for admission who is subject to mandatory detention pursuant to
14 8 U.S.C. § 1225(b). *See Matter of Yajure Hurado*, 29 I&N Dec. 216 (BIA 2025); *Zapata*, 2025 WL
15 3687643, at *3-4. Applicants for admission fall into one of two categories. Section 1225(b)(1)
16 covers noncitizens initially determined to be inadmissible due to fraud, misrepresentation, or lack
17 of valid documentation, and certain other aliens designated by the Attorney General in her
18 discretion. Separately, Section 1225(b)(2) serves as a catchall provision that applies to all
19 applicants for admission not covered by Section 1225(b)(1) (with specific exceptions not relevant
20 here). *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

21 Congress has determined that all aliens subject to Section 1225(b) are subject to mandatory
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23 ³ The Federal Respondents acknowledge that courts in this judicial district have held otherwise. Dkt. 1, pg. 1 (citing
24 cases). The Federal Respondents respectfully disagree with these holdings.

1 detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2), the sole means
2 of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian reasons or
3 significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

4 **B. Interim Parole under 8 U.S.C. § 1182(d)(5)(A)**

5 While all noncitizens detained pursuant to 8 U.S.C. § 1225(b) are subject to mandatory
6 detention, they may be subject to parole by the Attorney General or the Department of Homeland
7 Security (DHS), and that is not an issue that the Immigration Judge has authority to consider. *See*
8 INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(a) (2025) (designating who may
9 exercise authority to grant parole); *see also Jennings*, 583 U.S. at 300 (noting that the Attorney
10 General may grant aliens detained under Section 235(b)(1) temporary parole into the United States
11 “for urgent humanitarian reasons or significant public benefit” (quoting INA § 212(d)(5)(A),
12 8 U.S.C. § 1182(d)(5)(A)). This discretionary parole is statutorily required to be “temporary
13 parole” under 8 U.S.C. § 1182(d)(5)(A), and the statute does not grant the Attorney General or
14 DHS the discretion to grant indefinite parole to those subject to mandatory detention.

15 **C. Petitioner Sila Yildirim**

16 Petitioner is a native and citizen of Turkiye. *See* Declaration of Deportation Officer Robert
17 Andron (Andron Decl.) at ¶ 3. She entered the United States on October 16, 2024, without being
18 admitted or paroled after inspection by an Immigration Officer. *Id.* at ¶ 4. She was taken into
19 custody by Border Patrol. *Id.*

20 On October 27, 2024, a Notice to Appear (NTA) was filed with the Executive Office for
21 Immigration Review (EOIR), charging Petitioner as removable under the Immigration and
22 Nationality Act (INA) Section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in
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1 the United States without being admitted or paroled, or has arrived in the United States at any time
2 or place other than designated by the Attorney general. *Id.* at ¶ 5.

3 Petitioner was served with a copy of the NTA on October 28, 2024, and was released by
4 Border Patrol on an Order of Release on Recognizance (OREC) and given instructions to report
5 for ICE's Alternatives to Detention (ATD) program. *Id.* at ¶ 6. On November 5, 2024, Petitioner
6 reported to the Seattle area ATD program and was scheduled for ATD enrollment on December 10,
7 2024. *Id.* at ¶ 7. Petitioner reported to Seattle Area ATD and was enrolled on December 10, 2024.
8 *Id.* at ¶ 7.

9 The NTA set an initial hearing date in Seattle Immigration Court for September 24, 2025.
10 *Id.* at ¶ 5. On December 17, 2024, Petitioner filed written pleadings admitting the factual
11 allegations and conceding the charge of removability. *Id.* at ¶ 9. On January 16, 2025, Petitioner
12 filed a motion to consolidate with her husband's immigration court case, which was granted. *Id.* at
13 ¶¶ 10-11. The Seattle Immigration Court issued a Notice of In-Person Hearing for an Individual
14 hearing on September 7, 2027. *Id.* at ¶ 11. On March 13, 2025, Petitioner filed an I-589 Application
15 for Asylum and for Withholding of Removal. *Id.* at ¶ 12.

16 On December 11, 2025, Petitioner reported to the ATD Office in Tukwila, Washington per
17 her OREC reporting requirements. *Id.* at ¶ 13. During routine system queries, ICE Enforcement
18 and Removal Operations (ERO) discovered Petitioner never reported to Seattle ERO for a check
19 in following her release from Border Patrol. *Id.*; *see also* Declaration of Kristin B. Johnson
20 (Johnson Decl.), Ex. C. Petitioner was taken into custody by ERO for the violation and transported
21 to the Northwest ICE Processing Center (NWIPC). Andron Decl. at ¶ 13, Johnson Decl. at Exs. A-
22 C. ERO issued a Warrant for Arrest for Alien and cancelled Petitioner's OREC. Andron Decl. at
23 ¶ 13, Johnson Decl. at Ex. A. ICE interviewed Petitioner at the time of the cancellation of her
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1 OREC. Johnson Decl. at Ex. B. She was given written notice of the reasons for her detention and
2 given the opportunity to respond, but she declined to do so. *Id.*

3 On December 22, 2025, the Tacoma Immigration Court issued a Notice of In Person
4 Hearing for a master hearing on January 21, 2026. Andron Decl. at ¶ 15. Petitioner is currently
5 detained in per INA § 235(b)(2), 8 U.S.C. § 1225(b)(2) while her asylum claim is being processed.
6 *Id.* at ¶ 16.

7 **III. LEGAL STANDARD**

8 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
9 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
10 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope
11 of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day.”
12 *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n.20 (2020). Title 28 U.S.C.
13 § 2241 provides district courts the authority to grant habeas relief “within their respective
14 jurisdictions.”

15 To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her
16 custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C.
17 § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

18 **IV. ARGUMENT**

19 **A. ICE lawfully detains Petitioner pursuant to 8 U.S.C. § 1225(b).**

20 Congress enacted a multi-layered statutory scheme that provides for the civil detention of
21 noncitizens pending removal. *See Prieto-Romero v. Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008).
22 Where an individual falls within this scheme affects whether his or her detention is discretionary
23 or mandatory, as well as the kind of review process available. *Id.* at 1057.

1 Aliens who are apprehended shortly after illegally crossing the border and who are
2 determined to be inadmissible due to lacking a visa or valid entry documentation, 8 U.S.C.
3 § 1182(a)(7)(A), may be removed pursuant to an expedited removal order unless they express an
4 intention to apply for asylum or a fear of persecution in their home country. 8 U.S.C.
5 §§ 1225(b)(1)(A)(i), (iii)(II). “The purpose of these provisions is to expedite the removal from the
6 United States of aliens who indisputably have no authorization to be admitted to the United States,
7 while providing an opportunity for such an alien who claims asylum to have the merits of his or
8 her claim promptly assessed by officers with full professional training in adjudicating asylum
9 claims.” H.R. Conf. Rep. No. 828, 104th Cong., 2d Sess. 209 (1996).

10 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers aliens
11 initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
12 documentation, and certain other aliens designated by the Attorney General in her discretion.
13 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for
14 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*
15 *Jennings*, 583 U.S. at 287.

16 Congress has determined that all aliens subject to Section 1225(b) are subject to mandatory
17 detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2), the sole means
18 of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian reasons or
19 significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

20 Petitioner’s re-detention under Section 1225(b) without a pre-detention hearing was lawful.
21 *Zapata*, 2025 WL 3687643, at *3-4. The fact that Petitioner had initially been released by ICE on
22 conditional parole does not change this fact. There is no statutory or regulatory requirement that a
23 noncitizen be provided with a pre-detention hearing before re-detention. ICE’s authority to re-

1 arrest is not limited to circumstances where a material change in circumstances has occurred. The
2 facts here are simple: Petitioner was subject to mandatory detention, Petitioner was granted
3 discretionary parole, ICE exercised its discretionary authority to revoke her parole, and she was
4 re-detained while her expedited removal proceedings and asylum claim are being processed.

5 Further, several provisions at 8 U.S.C. § 1252 preclude review. First, 8 U.S.C. § 1252(g)
6 bars review of Petitioner's claims because they arise from the government's decision to commence
7 removal proceedings. Second, 8 U.S.C. § 1252(b)(9) bars the Court from hearing Petitioner's
8 claims because her claims challenge the decision and action to detain her, which arises from the
9 government's decision to commence removal proceedings, thus an "action taken . . . to remove an
10 alien from the United States." Third and lastly, 8 U.S.C. § 1252(e)(3) applies and limits "[j]udicial
11 review of determinations under Section 1225(b) of this title and its implementation." The plain
12 language of the statute precludes judicial review for aliens determined to be detained pursuant to
13 Section 1225(b)(2) and applies to a "determination under section 1225(b)" and to its
14 implementation.

15 **B. Petitioner's detention comports with due process.**

16 Petitioner's detention does not violate her substantive and procedural due process rights.
17 Petitioner inaccurately argues that the standard for parole under 8 C.F.R. § 212.5(b) is that she is
18 a flight risk or danger to the community. Instead, the default for mandatory detainees is no release.
19 However, the Attorney General may provide parole only on a case-by-case basis for "urgent
20 humanitarian reasons" or "significant public benefit." 8 C.F.R. § 212.5(b).

21 **1. Substantive Due Process**

22 ICE has a legitimate interest in Petitioner's detention. For more than a century, the
23 immigration laws have authorized immigration officials to charge aliens as removable from the
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1 country, to arrest aliens subject to removal, and to detain aliens for removal proceedings. *See*
2 *Demore v. Kim*, 538 U.S. 510, 523-26 (2003); *Abel v. United States*, 362 U.S. 217, 232-37 (1960)
3 (discussing longstanding administrative arrest procedures in deportation cases). “Detention during
4 removal proceedings is a constitutionally valid aspect of the deportation process.” *Velasco Lopez*
5 *v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore*, 538 U.S. at 523); *see Demore*,
6 538 U.S. at 523 n.7 (“prior to 1907 there was no provision permitting bail for any aliens during
7 the pendency of their deportation proceedings”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952)
8 (“Detention is necessarily a part of [the] deportation procedure.”). Indeed, removal proceedings
9 “‘would be in vain if those accused could not be held in custody pending the inquiry into their true
10 character.’” *Demore*, 538 U.S. at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235
11 (1896)).

12 Congress has determined that all aliens subject to Section 1225(b) are subject to mandatory
13 detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2), the sole means
14 of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian reasons or
15 significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

16 Petitioner’s detention here under Section 1225(b) without a pre-detention hearing was
17 lawful. The fact that ICE made an initial determination that Petitioner could be released on parole
18 does not prevent ICE from later revoking that parole. ICE has the clear discretionary authority to
19 revoke conditional parole. 8 C.F.R. § 236.1(c)(9). ICE made an individual discretionary
20 determination to revoke Petitioner’s parole during her expedited removal proceedings and while
21 her asylum claim is being processed. Thus, ICE had a legitimate, non-punitive interest in her
22 detention.

23 //

1 **2. Procedural Due Process**

2 “Due process is flexible and calls for such procedural protections as the particular situation
3 demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that
4 Petitioner’s detention is consistent with her due process rights. Under *Mathews*, “[t]he fundamental
5 requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful
6 manner.” *Id.* at 333 (internal quotation marks omitted). This calls for an analysis of (1) “the private
7 interest that will be affected by the official action,” (2) “the risk of an erroneous deprivation of
8 such interest through the procedures used, and probable value, if any, of additional or substitute
9 procedural safeguards,” and (3) the Government’s interest. *Id.* at 334-35.

10 **a. Liberty Interest.**

11 The Federal Respondents recognize the “weighty liberty interests implicated by the
12 Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at
13 *11 (S.D.N.Y. Aug. 20, 2021). However, Petitioner’s interest in her liberty *generally* does not
14 mean that she possesses a separate or heightened liberty interest in the continuation of her
15 conditional release. Moreover, Petitioner does not have a liberty interest in participating in parole.

16 “The recognized liberty interests of U.S. citizens and aliens are not coextensive: the
17 Supreme Court has ‘firmly and repeatedly endorsed the proposition that Congress may make rules
18 as to aliens that would be unacceptable if applied to citizens.’” *Rodriguez Diaz*, 53 F.4th at 1206
19 (quoting *Demore*, 538 U.S. at 522). As the Supreme Court has explained, “[i]n the exercise of its
20 broad power over naturalization and immigration, Congress regularly makes rules that would be
21 unacceptable if applied to citizens.” *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). Indeed, the
22 Supreme Court has repeatedly “recognized detention during deportation proceedings as a
23 constitutionally valid aspect of the deportation process.” *Demore*, 538 U.S. at 523.

1 Petitioner's release was always subject to conditions of release, and she knew that she could
2 be re-detained. Accordingly, Petitioner cannot claim that the government promised her ongoing
3 freedom.

4 **b. The existing procedures are constitutionally sufficient.**

5 Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation
6 of Petitioner's liberty here is minimal. First, noncitizens have no right to a hearing before an
7 immigration judge under Section 1225(b). Likewise, there is no requirement for such a hearing
8 before re-detention after revocation of release. The Supreme Court has warned courts against
9 reading additional procedural requirements into the INA. *See Johnson v. Arteaga-Martinez*,
10 596 U.S. 573, 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C.
11 § 1231(a)(6) because "reviewing courts . . . are generally not free to impose [additional procedural
12 rights] if the agencies have not chosen to grant them") (quoting *Vermont Yankee Nuclear Power*
13 *Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)).

14 **c. The Government has a strong interest in returning noncitizens to**
15 **custody who violate conditions of release.**

16 Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews*
17 test "must account for the heightened government interest in the immigration detention context."
18 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court's 2003 *Demore* decision, the Ninth
19 Circuit in *Rodriguez Diaz* recognized that "the government clearly has a strong interest in
20 preventing aliens from 'remain[ing] in the United States in violation of our law.'" *Rodriguez Diaz*,
21 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). "This is especially true when it comes to
22 determining whether removable aliens must be released on bond during the pendency of removal
23 proceedings." *Rodriguez Diaz*, 53 F.4th at 1208. The government likewise has an interest in
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1 enforcing compliance with its orders of release on recognizance and returning individuals to
2 custody who violate their terms.

3 In short, the three *Mathews* factors demonstrate that Petitioner's detention comports with
4 procedural due process.

5 **CONCLUSION**

6 Accordingly, Petitioner's habeas petition should be denied and dismissed without an
7 evidentiary hearing.

8 DATED this 12th day of January, 2026.

9 Respectfully submitted,

10 CHARLES NEIL FLOYD
11 United States Attorney

12 s/ Kristin B. Johnson

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18 *I certify that this memorandum contains 2,768 words,*
19 *in compliance with the Local Civil Rules.*