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

JOSWAR RODRIGUEZ TORRES,

Petitioner,

v.

KRISTI NOEM, Secretary for the Department
of Homeland Security; TODD LYONS, Acting
Director, Immigration and Customs
Enforcement; CAMILLA WAMSLEY, Field
Office Director, Immigration and Customs
Enforcement Seattle Field Office; BRUCE
SCOTT, Warden, Northwest ICE Processing
Center,

Respondents.

Case No. 2:25-cv-02697-JLR

**PETITIONER'S TRAVERSE TO
FEDERAL RESPONDENTS' RETURN
MEMORANDUM**

Noted for Consideration: January 20, 2026

1 **I. BACKGROUND**

2 Respondents have accurately stated the case’s facts in their Return Memorandum, and
3 Petitioner makes no dispute to the recitation nor the summary of his arguments before the Court.
4 Regarding the declaration of Delano Dumo, he does note that an administrative warrant for his
5 arrest was created on June 11, 2025 – the date of his ERO check-in – and was likely created
6 during his required reporting. *See* Dckt. Ent. 7, ¶ 6. Officer Dumo has not alleged any violations
7 of Petitioner’s supervision or status as a parolee, and the warrant itself does not identify a
8 particular factor serving as the basis for detention. Dckt. Ent. 8-3 at p. 2.

9 **II. ARGUMENT**

10 Petitioner does not disagree with the government’s perspective on expedited removal
11 under 8 U.S.C. § 1225. Had he entered the United States *illegally*, expedited removal
12 proceedings would have been suspended upon the service of a charging instrument; due to his
13 paroled entry, however, he remains an “arriving alien” under 8 C.F.R. § 1.2 and is ineligible to
14 have his custody reviewed by the immigration court. *Dept. of Homeland Sec. v. Thuraissigiam*,
15 591 U.S. 103, 110 (2020); 8 U.S.C. § 1225(g)(2)(A); *see also* 8 C.F.R. § 235.3(c)(1) (stating that
16 arriving aliens are subject to expedited removal even if in 8 U.S.C. § 1229a removal
17 proceedings). As Respondents have noted, the sole means to his release from detention is parole
18 under 8 U.S.C. 1182(d)(5), which did previously occur in the case – and is exactly why habeas
19 should be granted.

20 Under 28 U.S.C. § 2241(c)(3), the writ of habeas corpus extends to anyone who is
21 detained “in violation of the Constitution of laws or treaties of the United States.” *I.N.S. v. St.*
22 *Cyr*, 533 U.S. 289, 301 (2001) (“[T]he writ of habeas corpus has served as a means of reviewing
23 the legality of Executive detention, and it is in that context that its protections have been the

1 strongest”). As this Court recently recognized, a person’s rights under the Due Process Clause
2 are “the most elemental of liberty interests.” *E.A. T.-B. v. Wamsley*, --- F. Supp. 3d. --- No. C25-
3 1192-KKE, 2025 WL 2402130, at *3 (W.D. Wash. Aug. 19, 2025) (stating that the petitioner had
4 “an exceptionally strong interest in freedom from physical confinement”); *see also Ramirez*
5 *Tesara v. Wamsley*, --- F. Supp. 3d. ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at
6 *3 (W.D. Wash. Sept. 12, 2025). Freedom from imprisonment, regardless of immigration status,
7 lies at the heart of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S.
8 678, 690 (2001).

9 The government has not meaningfully responded to Petitioner’s Due Process arguments,
10 other than to state his APA claims are “duplicitous” of them. Dckt. Ent. 6, p. 4. Petitioner will
11 expound: in cases of re-detention (i.e., when parole was previously granted), a litigant has a
12 protected, constitutional interest in remaining out of custody. *See Garro Pinchi v. Noem*, 792 F.
13 Supp. 3d 1025, 1032 (N.D. Cal. 2025). Typically, a hearing before a neutral decisionmaker is
14 needed before returning a person into custody; pursuant to *Mathews v. Eldridge*, 424 U.S. 319
15 (1976), the process cannot occur carte blanche even when detention is “mandatory” under the
16 INA. Petitioner has been undoubtedly deprived of a liberty interest in this instance, and even
17 though he is “mandatory detention” by statute, the risk of an erroneous deprivation of liberty was
18 clearly prejudicial as there never was a mechanism to ensure the very purposes of custody – the
19 prevention of danger and flight risk – were to be served. *See E.A. T.-B.*, 2025 WL 2402130 at
20 *5.

21 Moreover, the government’s interest in re-detaining non-citizens previously released
22 without a hearing is low. Although it requires the expenditure of time and money to provide a
23 person with notice and a hearing for the reasons, those costs are surely outweighed by the risk of

1 unlawful detention. *Id.* No such analysis occurred in this case. This Court has revisited the same
2 issue several times over, finding in petitioners' favor on several accounts. *See, e.g., E.A. T.-B.*,
3 2025 WL 2402130, at *4; *Ramirez Tesara*; 2025 WL 2637663, at *2-3; *Kumar v. Wamsley*, No.
4 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2-3 (W.D. Wash. Sept. 17, 2025); *Y.M.M. v.*
5 *Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025);
6 *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-CJL, 2025 WL 2841574, at *7-9 (W.D.
7 Wash. Oct. 7, 2025); *Cabrera Perez v. Hermosillo*, No. C25-2542-RSM, 2026 WL 100735, at
8 *18 (W.D. Wash. Jan. 14, 2026).

9 Additionally, these rulings track with many other district court decisions addressing
10 similar situations. *See, e.g., Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737
11 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing);
12 *Pinchi v. Noem*, 792 F.3d 1025, 1038 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No.
13 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v.*
14 *Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

15 With respect to the APA claims raised, Petitioner rests on the arguments raised in his
16 Petition for Writ of Habeas Corpus.

17 **IV. CONCLUSION**

18 For the reasons above, Petitioner asks this Court to find that his current detention is in
19 violation of the federal constitution and statutes, and requests a Writ of Habeas Corpus ordering
20 his immediate release from ICE custody.

Respectfully submitted,

Dated: January 20, 2026

s/ Benjamin Cornell
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I certify that this memorandum conforms with the local rules as it is 3,809 words in length.