

Magistrate Judge Michelle L. Peterson

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

G.S.2.,

Petitioner,

vs

LAURA HERMOSILLO, et al.,

Respondents.

Case No.: 2:25-cv-02705-MLP

**PETITIONER'S TRAVERSE AND
RESPONSE TO RESPONDENTS'
RETURN MEMORANDUM**

Note on Motion Calendar:
January 20, 2026

INTRODUCTION

1. Respondents' return and accompanying evidence pertaining to Petitioner demonstrate that the salient facts in this case are undisputed. Petitioner was re-arrested without Respondents first providing notice and a hearing before a neutral decisionmaker where ICE must demonstrate by clear and convincing evidence that Petitioner was re-detained because he is now a flight risk or a danger to the community. Surprisingly, the Respondents have not offered any reason whatsoever for the Petitioner's re-detention. In fact, the Respondents state that "analysis of his potential flight risk or dangerousness would be immaterial, and a hearing would be futile." Federal Respondents' Return, Dkt. 8 at p. 7. There is no assertion anywhere, in any of the documents filed by Respondents, that the Petitioner presented a flight risk or a danger to the community. *See* Dkt. 8 in its entirety. In addition, the Declaration of Deportation Officer Yralees Melendez ("Melendez Decl.") that was filed in support of the Federal Respondents'

Return, also does not include any evidence or assertions that the Petitioner presented a flight risk or a danger to the community. Melendez Decl., Dkt 9, in its entirety. Likewise, the documents attached to the Declaration of Jennifer Wong, Assistant United States Attorney, (“Wong Decl.”), do not include any evidence or assertions that the Petitioner presented a flight risk or a danger to the community. Wong Decl., Dkt. 10, in its entirety. We submit that that reliance is misplaced, and further that the Declarations ignored the Respondents’ own evidence. In particular, the only mistake attributed to the Petitioner is that he had missed one ATD (Alternatives to Detention) reporting date on February 14, 2024. Melendez Decl. Dkt. 9, ¶ 9. In lieu of detention, Petitioner “was referred for GPS installation and enrolled in the ATD program” for GPS monitoring. *Id.* See also Wong Decl., Dkt 10-4, Exhibit 4, at p. 4. Moreover, Respondents’ legal arguments are irrelevant and contrary to this Court’s recent rulings, or otherwise unavailing.

2. Because due process demands Respondents afford Petitioner a meaningful process before re-detention, this Court should grant Petitioner’s habeas petition and order immediate release.

RESPONSIVE STATEMENT OF FACTS

3. Since his release, Petitioner has fulfilled his conditions of release. Despite Petitioner’s perfect compliance with ICE and ISOP reporting, with ankle bracelet monitoring for 45 months (following his one missed appointment, mentioned above), he was abruptly and unlawfully re-detained by the Department of Homeland Security (DHS) at his call-in at the non-detained ICE office in Tukwila, WA. Specifically, according to Dkt. 1-2, Exhibit B, pp. 2-3,

On December 8, 2025 I went to the [Sacramento, CA] ICE offices and told them that I wanted permission to move to the Seattle area . I was told that would be OK and I received permission. On December 9, 2025, I confirmed again that it was OK for me to go to live in Kent, WA.

As I stated above, before I left Sacramento and headed up north. I verified with ICE/ISAP/BI that I was cleared to move to the Seattle area, and I was told to report to ICE on December 16, 2025 at 8:00am. I spoke with a woman at BI, and I verified my move with her. I started driving north on Sunday, December 14, 2025. Shortly after crossing into Oregon, my ankle bracelet alarm went off and I received a call from a person monitoring my bracelet. I explained that I had received permission to move and that person told me OK and that I was "good to go."

I arrived in Kent, WA in the evening of December 14, 2025.

On December 16, 2025, I reported to the Immigration and Customs Enforcement Office at 12500 Tukwila International Boulevard. I was arrested and taken into ICE custody and transported to the Northwest ICE Processing Center in Tacoma. I told the arresting officers that I had received permission to move, but they told me that they had to arrest me. I do not understand why they insisted on arresting me.

ARGUMENT

Respondents' statutory authority to detain is irrelevant to Petitioner's claim. Petitioner has a due process right to a pre-deprivation hearing under the *Mathews* balancing factors, an argument Respondents fail to contest.

4. Respondents fail to meaningfully contest Petitioner's entitlement to relief. First, Respondents' focus on ICE's statutory detention authority avoids the constitutional issue before the Court: whether Petitioner's re-detention comported with procedural due process.

In fact, in granting a similar re-detention habeas petition, this Court stated:

To the extent that the Government's briefing suggests that Section 1225(b) should be the beginning and end of the Court's inquiry, this position is emphatically rejected. In determining the lawfulness of Petitioner's detention, the Court will focus not on the Government's claimed authority to detain, but the process by which Petitioner was detained.

P.T v. Hermosillo, No. 2:25-cv-02249-KKE, 2025 WL 3294988, at *2 n.1 (W.D. Wash Nov. 26, 2025); see also, e.g., Francois v. Wamsley, No. C25-2122-RSM-GJL, 2025 WL 3063251, at *3 (W.D. Wash. Nov. 3, 2025) ("Any argument that ICE acted within its authority has no affect [sic] on a claim contending that detention violates Constitutional Due Process." (citation

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bart.klein@bartklein.com

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Law Offices of Bart Klein
#500, 605 First Avenue
Seattle, WA 98104
(206)755-5651cell/624-3787off/238-9975fax

omitted)).

5. Although not necessary to decide the merits of the instant petition, it is worth noting that the Court previously rejected the application of 8 U.S.C. § 1225(b) to a petitioner who was similarly apprehended after entering the country, released to continue his removal proceedings, and subsequently re-detained. See *P.T.*, WL 3294988, at *2 n.1 ("Although the Government asserts that Petitioner falls within the mandatory detention scheme under 8 U.S.C. § 1225(b) simply because he has not been 'admitted' to the United States, this Court joins others in rejecting an expansion of the scope of this scheme to include Petitioner." (citation modified). The same logic holds here.

6. Similarly unavailing is Respondents' assertion that "[t]here is no statutory or regulatory requirement that a noncitizen be provided with a pre-detention hearing before re-detention." Dkt. 8, p. 5. As Respondents "acknowledge," Dkt. 8, p. 6, courts in this District, and courts around the country, have repeatedly held that such a pre-deprivation hearing is required by the U.S. Constitution. *E.g.*, *Tomas Manuel v. Hermosillo*, No. C25-2353-TL-MLP, 2025 WL 3690778 (W.D. Wash. Dec. 10, 2025) ("Setting aside Respondents' statutory interpretation, which recent decisions of the Court have cast into doubt, the government must still comply with constitutional requirements."), *report and recommendation adopted*, 2025 WL 3697277 (Dec. 19, 2025); *P.T.*, 2025 WL 3294988, at *4 (granting habeas petition, ruling that "absent notice and an opportunity to be heard," "[p]etitioner's re-detention does not comport with due process," and granting immediate release); *Ramirez Tesara v. Wamsley*, No. 2:25-cv-01723-KKE-TLF, 2025 WL 3288295, at *2 (W.D. Wash. Nov. 25, 2025) ("Petitioner's re-detention without notice and an opportunity to be heard violates his right to due

process"); *Y.MM v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2-3 (W.D. Wash. Nov. 6, 2025) (same); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *9 (W.D. Wash. Oct. 7, 2025) (same); *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (same); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *3 (W.D. Wash. Sept. 17, 2025) (granting TRO and ordering immediate release due to lack of pre-deprivation hearing); *Francois*, 2025 WL 3063251 (same); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *8 (E.D. Cal. Aug. 21, 2025) (same); *Duong v. Kaiser*, No. 25-CV-07598-JST, 2025 WL 2689266, at *7 (N.D. Cal. Sept. 19, 2025) (granting preliminary injunction and ordering that petitioner not be re-detained without a pre-deprivation hearing before a neutral immigration judge where the government must demonstrate by clear and convincing evidence that she is a flight risk or danger); *Garro Pinchi v. Noem*, 792 F.Supp.3d 1025 (N.D. Cal.) (same). Respondents fail to provide a valid basis for their "disagree[ment] with these holdings." Dkt. 8 at 2 n.2.

Procedural due process requires the government to provide notice and a hearing prior to re-detention.

7. In *E.A.T.-B*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework to hold that even in a case where the government asserted that mandatory detention initially applied, a person's re-detention could not occur absent a hearing.

8. The Court did the same in *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez*. See *Ramirez Tesara*, 2025 WL 2637663, at *2-3; *Kumar*, 2025 WL 2677089, at *2-3; *Ledesma Gonzalez*, 2025 WL 2841574, at *7-8.

9. The *Mathews* factors weigh in favor of granting Petitioner's petition for a writ of habeas corpus and immediate release. Respondents do not contest the *Mathews* test's applicability

10. First, Respondents assert that noncitizens' liberty interests are less than those of U.S. citizens. *See* Dkt. 6 at pp 6-7. However, this "does not negate Petitioner[s'] liberty interest" in avoiding arbitrary re-detention. *Kumar*, 2025 WL 2677089, at *3; *see also, e.g., P.T.*, 2025 WL 3294988, at *2 (citing *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) ("[I]ndividuals who have been released from custody, even where such release is conditional, have a liberty interest in their continued liberty.")). The undisputed facts demonstrate that Respondents previously released the Petitioner from immigration custody under parole, that the Petitioner timely-filed for asylum, and that the Petitioner was actively participating in immigration check-ins when Respondents took him into immigration custody without notice and a hearing prior to his re-detention. *See* Dkt. 4 at pp. 2-5. Regulations implementing 8 U.S.C. § 1182(d)(5) require DHS to release an individual under parole after determining that they "present neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b).

11. Second, Respondents' assertion that existing procedures are sufficient to protect whatever interest that Petitioner had due process to be free from erroneous deprivation of his liberty is starkly inconsistent with this Court's caselaw. In this case, the Petitioner was taken into custody without any showing of a risk of flight or danger to the community and that highlights that the risk of erroneous deprivation of liberty is high when ICE fails to provide notice and a hearing prior to re-detention. To begin with, Respondents do not contest that Petitioner had a work permit, and that he was wearing a GPS ankle bracelet to track his movements around the United States, and that he had received permission to move to Washington.

1 Under the totality of the circumstances, the Declaration of Yralees Melendez Diaz, and the
 2 Declaration of Jennifer Wong should be given limited weight if even considered by the Court.
 3 The Petitioner has provided a first-hand account of his compliance with check-in requirements
 4 and close communication with his assigned officer regarding any technical difficulties. In
 5 contrast, of the officers assertions are not based on personal knowledge of Petitioner's
 6 circumstances of re-detention. *See* Fed. R. Evid. 602. Instead, we submit that the declarations
 7 contain inadmissible hearsay in violation of Federal Rule of Evidence 801(c). Moreover, the best
 8 evidence rule requires that Respondents produce the "various records and systems maintained by
 9 ICE[.]" rather than relying upon officer summaries of them, *see* Fed. R. Evid. 1002.

11 12. In fact, even if the declarations and the attached ICE records are considered to meet
 12 the facial requirements under the Federal Rules of Evidence, this Court has previously found "no
 13 reason to assume the accuracy of the Government's records of Petitioner's ATD violations, or to
 14 assume that they alone justify detention." *P.T.*, 2025 WL 3294988, at *3; *see also* Order,
 15 *Francois v. Wamsley*, No. 2:25-cv-02122-RSM-GJL (W.D. Wash. Dec. 5, 2025), Dkt. 22 at 6
 16 ("[N]or do [Respondents] address that one of his check-ins failed due to the app being faulty,
 17 potentially the same alleged 'failure to report,' which the Government acknowledged and
 18 cleared."). Regardless, "factual disputes" as to any alleged violations of Petitioner's initial
 19 release conditions "should [have been] resolved at a pre-deprivation hearing, rather than resolved
 20 after the fact by this Court." *Ramirez Tesara*, 2025 WL 3288295 at *5; *see also P.T.*, 2025 WL
 21 3294988, at *3 ("[A]ny factual dispute about the validity of the [alleged] violations should have
 22 been resolved at a pre-deprivation hearing.") This Court has now repeatedly held that even
 23
 24

25 assuming parole violations or valid reasons for re-detention, Respondents are not permitted to
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 27 bart.klein@bartklein.com

Law Offices of Bart Klein
 #500, 605 First Avenue
 Seattle, WA 98104
 (206)755-5651cell/624-3787off/238-9975fax

1 ignore their "obligation to effectuate the detention in a manner that comports with due process."
 2 *P.T.*, 2025 WL 3294988, at *3; *see also Ramirez Tesara*, 2025 WL 3288295, at *5 ("Even if the
 3 Government accurately counted Petitioner's [alleged forty] parole violations ... it is clear that
 4 Petitioner was not provided notice and an opportunity to be heard on them if, even now, the
 5 Government cannot fully describe the violations that purportedly triggered Petitioner's re-
 6 detention.").

7
 8 13. Third, Respondents' assertion that the government possesses a "strong" interest "re-
 9 detaining non-citizens with alleged parole violations remains unavailing. Courts in this District
 10 have now repeatedly recognized that (1) the government's interest in re-detaining
 11 non-citizens is "low," *e.g.*, *Ramirez Tesara*, 2025 WL 3288295, at *5; *P.T.*, 2025 WL 3294988,
 12 at *3; Order, *Francois*, No. 2:25-cv-02122-RSM-GJL, Dkt. 22 at 7; (2) any interest in ensuring
 13 conditions for release are followed "are not threatened if a pre-deprivation is required," *P. T.*,
 14 2025 WL 3294988, at *4; and (3) the "finite" costs of providing such notice and a hearing "are
 15 far out-weighed by the risk of erroneous deprivation" of Petitioner's liberty interests, *id.*, at *3.
 16 Because Respondents' manner of re-detaining the Petitioner did not comport with procedural due
 17 process, the Petitioner has been unlawfully detained since his re-detentions in December 2025.

18 CONCLUSION

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 20 14. Accordingly, Petitioner requests the Court grant this petition.

21
 22 15. Respondents' return and supporting documents do not contest the material facts nor pose
 23 new legal arguments that undermine this Court's recent rulings in similar habeas cases. As each
 24 of the *Mathews* factors favor Petitioner, the Court should grant the Petitioner's habeas petition

25 for immediate release, and order that Respondents not re-detain Petitioners "until after an

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27 bart.klein@bartklein.com

Law Offices of Bart Klein

#500, 605 First Avenue

Seattle, WA 98104

(206)755-5651 cell/624-3787 off/238-9975 fax

1 immigration court hearing is held (with adequate notice) to determine whether detention is
2 appropriate." *E.A. T.-B.*, 795 F. Supp. at 1324.

3 DATED: January 20, 2026.

4 Respectfully submitted,
5 LAW OFFICES OF BART KLEIN
6 s/ Bart Klein
7 Bart Klein, Attorney for Petitioner, WSBA #10909
8 605 First Avenue, Suite 500
9 Seattle, WA 98104
10 (206)755-5651cell
11 (206) 624-3787off
12 (206) 238-9975fax
13 bart.klein@bartklein.com

14 *I certify that this memorandum contains 2346*
15 *words in compliance with the Local Civil Rules.*