

Magistrate Judge Theresa L. Fricke

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Kevin Alexander QUINONEZ TORRES,

Petitioner,

v.

Laura HERMOSILLO et al.,

Respondents.

Case No. 2:26-cv-00076-TLF

PETITIONER'S TRAVERSE

Noted for Consideration:
January 27, 2026

INTRODUCTION

Petitioner Kevin Alexander Quinonez Torres was released from immigration custody at the age of fifteen and permitted to live freely in the community for nearly six years, during which time he was granted Special Immigrant Juvenile Status (SIJS) and deferred action. In March 2025, the Department of Homeland Security (DHS) re-detained Petitioner without any notice or hearing. The weight of constitutional authority makes clear that this re-detention violated the Due Process Clause. Respondents further acted unlawfully by subjecting him to mandatory detention for over ten months under an erroneous interpretation of the detention statutes. As courts across the country have held, individuals like Mr. Quinonez are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and thus entitled to consideration for release on bond.

Accordingly, the Court should grant the writ and order Petitioner's immediate release. Because Respondents have not disavowed the authority to re-detain him without notice or a

1 hearing, the Court should also enjoin Respondents from re-detaining Petitioner without a pre-
 2 deprivation hearing, “as law and justice require.” 28 U.S.C. § 2243.

3 ARGUMENT

4 I. Petitioner is subject to detention under 8 U.S.C. § 1226(a).

5 Respondents do not attempt to distinguish this Court’s recent decisions rejecting their
 6 expansive interpretation of 8 U.S.C. § 1225(b). *See Rodriguez Vazquez v. Bostock*, 802 F. Supp.
 7 3d 1297, 1336 (W.D. Wash. 2025); *Del Valle Castillo v. Wamsley*, No. 2:25-cv-02054-TMC,
 8 2025 WL 3524932, at *1, *5–6 (W.D. Wash. Nov. 26, 2025). Instead, Respondents
 9 “acknowledg[e]” that those rulings support Petitioner’s claim, but assert only that they “continue
 10 to believe” § 1225(b) applies because Petitioner “is a noncitizen present in the United States who
 11 has not been admitted.” Dkt. 7 at 5–6.

12 That belief does not excuse complying with the law or disregarding this Court’s repeated
 13 decisions. *See, e.g., Del Valle Castillo*, 2025 WL 3524932, at *5 (rejecting “the contention that
 14 all noncitizens present in the United States without legal authorization are subject to mandatory
 15 detention under § 1225(b)(2)”). As courts across the country have confirmed, § 1226(a) governs
 16 the detention of individuals with SIJS who, like Petitioner, were present in the United States
 17 without admission at the time they were re-detained. *See* Dkt. 1 ¶¶ 51–53; *see also, e.g., Merino*
 18 *v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *1 (S.D. Fla. Oct. 15, 2025)
 19 (holding that § 1226(a) applies to petitioner who was released from custody, received SIJS and
 20 deferred action, and re-detained after years of residing in the United States).

21 The two out-of-district cases Respondents cite, Dkt. 7 at 5, are both in the vast minority
 22 as to their interpretation of § 1226(a) and § 1225(b), and neither case involves individuals with
 23 SIJS or deferred action. Moreover, Respondents fail to note that in one of them, the district court
 24 issued an order granting the petitioners’ second motion for a temporary restraining order. *See*
 25 *Sixtos Chavez v. Noem*, No. 3:25-cv-02325-CAB-SBC, 2026 WL 114929, at *2 (S.D. Cal. Jan.
 26 15, 2026) (finding that Petitioners are likely to succeed on their claim in light of final judgment
 27

1 in *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal.
2 Dec. 18, 2025)).

3 **II. Petitioner's arbitrary re-detention without a pre-deprivation hearing violates the**
4 **Due Process Clause of the Fifth Amendment.**

5 Independent of his entitlement to a bond determination under § 1226(a), the Court should
6 order Petitioner's immediate release because his re-detention was unconstitutional from its
7 inception. Respondents' assertions to the contrary only reinforce Petitioner's liberty interest and
8 the significance of a pre-deprivation hearing.

9 First, Respondents' assertion that no "statutory or regulatory requirement" exists for a
10 pre-deprivation hearing is inapposite. Dkt. 7 at 6–7. The question here is whether the process by
11 which Respondents revoked Petitioner's liberty and re-detained him satisfied the Fifth
12 Amendment, not whether they have "statutory or regulatory" authority to detain him. *See, e.g.,*
13 *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1323 (W.D. Wash. 2025) ("This line of the
14 Government's reasoning therefore does not address Petitioner's concern and cannot carry the
15 day."); *Francois v. Wamsley*, No. C25-2122-RSM-GJL, 2025 WL 3063251, at *3 (W.D. Wash.
16 Nov. 3, 2025) ("Any argument that ICE acted within its authority has no affect [sic] on a claim
17 contending that detention violates Constitutional Due Process.").

18 Second, Respondents emphasize that Petitioner was not "re-detained" because his prior
19 removal proceedings were "terminated . . . without prejudice," and assert that his arrest was
20 "based on a *new* arrest warrant, and . . . a new Notice to Appear." Dkt. 7 at 6. Just as in similarly
21 situated re-detention cases, Petitioner was detained, released, and then later re-detained for
22 removal proceedings. Respondents fail to explain why the termination of proceedings is material
23 to the *constitutional* inquiry, which does not turn on the *statutory* or *regulatory* basis for
24 detention. With or without proceedings, Petitioner's release for years, during which time he
25 sought and obtained status, underscores his significant liberty interest.

26 If anything, that Petitioner was not in removal proceedings at the time of his arrest only
27 strengthens his liberty interest under the *Mathews v. Eldridge* analysis, particularly where he had

1 been granted SIJS and deferred action authorizing him to remain at liberty. *See, e.g., Vieira v. De*
2 *Anda-Ybarra*, --- F. Supp. 3d ---, 2025 WL 2937880, at *6 (W.D. Tex. Oct. 16, 2025) (holding
3 that individual who had proceedings terminated, was granted SIJS and deferred action, and
4 “recently put back into removal proceedings,” had “cognizable interest in his freedom . . . that
5 deserves great weight and gravity”); *see also, e.g., De Leon Hernandez v. Bondi*, No. 25-CV-
6 1384, 2025 WL 3217037, at *3 (W.D. La. Nov. 18, 2025) (similar); *Herrera v. Baltazar*,
7 No. 1:25-cv-04014-CNS, 2026 WL 91470, at *11 (D. Colo. Jan. 13, 2026) (finding “undisputed”
8 and “significant” liberty interest for SIJS recipient who was not in removal proceedings when re-
9 detained). Respondents’ only response is to argue that Petitioner’s liberty interest is “not
10 coextensive” with that of a U.S. citizen, Dkt. 7 at 7–8 (citation omitted), a proposition neither at
11 dispute nor material to the question presented. *See* Dkt. 1 ¶¶ 56–57, 66–70.

12 Third, Respondents’ assertion that a “pre-deprivation hearing would be futile” because he
13 is “subject to mandatory detention,” Dkt. 7 at 8, lacks merit. This argument simply depends on
14 Respondents’ baseless interpretation of § 1225(b)(2). Indeed, this argument only highlights the
15 risk of erroneous deprivation, because Defendants believe no hearing whatsoever is required.
16 *See, e.g., Vieira*, 2025 WL 2937880, at *7 (“Here, Section 1225(b)(2) as applied [by the
17 government] creates a substantial risk of erroneous deprivation of Petitioner’s interest in being
18 free from arbitrary confinement.”); *see also, e.g., Bethancourt Soto v. Soto*, --- F. Supp. 3d ---,
19 2025 WL 2976572 (D.N.J. Oct. 22, 2025) (finding significant risk of erroneous deprivation
20 because petitioner “is presently and *erroneously* detained under the mandatory detention
21 provisions of § 1225”). Mr. Quinonez’s case plainly demonstrates this risk: he was re-detained
22 without a pre-deprivation hearing and consequently subject to unlawful mandatory detention for
23 over ten months. This detention has occurred despite an immigration judge’s finding that he was
24 “not a danger to the community” and that “any risk of flight. . . is mitigated by imposing a
25 \$4,000 bond.” Dkt. 2-4 at 8, 9.

26 Finally, Respondents’ asserted governmental interests do not justify their re-detention of
27 Mr. Quinonez. Respondents assert that DHS arrested Petitioner and commenced proceedings

1 “based on his new criminal history and his lack of legal status,” claiming a governmental interest
 2 “in detaining individuals unlawfully present . . . who have been charged with committing violent
 3 crimes.” Dkt. 7 at 9. Respondents’ evidence, however, shows that DHS did not re-detain
 4 Petitioner until around four months after his initial arraignment on the criminal charge, Dkt. 8-7
 5 at 4, and fail to establish that his pending criminal charge was the basis of his re-detention, *see*
 6 Dkt. 8-8 at 1. As in *E.A. T.-B.*, “[t]hat Petitioner’s alleged violations occurred months before they
 7 were acted upon . . . undermines any suggestion that the Government’s interests must be satisfied
 8 immediately or that the cost of procedural safeguards would be insurmountable.” 795 F. Supp. 3d
 9 at 1324. And importantly, the government’s interests “in preventing noncitizens from remaining
 10 in the United States in violation of law, as well as in ensuring its orders are followed . . . are not
 11 threatened if a pre-deprivation hearing is required.” *Id.* at 1324; *see also, e.g., Ortega v. Bonnar*,
 12 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (“If the government wishes to re-arrest Ortega at any
 13 point, it has the power to take steps toward doing so; but its interest in doing so without a hearing
 14 is low.”).

15 **III. Petitioner is entitled to an order that prevents re-detention without a written notice**
 16 **and pre-deprivation hearing.**

17 Respondents’ unlawful conduct—both in re-detaining Petitioner without a pre-
 18 deprivation hearing and in maintaining that he is properly subject to mandatory detention, Dkt. 7
 19 at 5–8—confirms the need for an order enjoining Respondents from re-detaining Mr. Quinonez
 20 in the same manner. The remedy that Petitioner seeks is tailored to the unlawful conduct that he
 21 challenges. He does not seek a permanent injunction against ever being re-detained again;
 22 instead, he seeks “written notice and a pre-deprivation hearing at which DHS must justify any re-
 23 detention by clear and convincing evidence.” Dkt. 1, Prayer for Relief (g).

24 Respondents’ primary reliance on *Cummings v. Connell*, 316 F.3d 886 (9th Cir. 2003), is
 25 unavailing. In *Cummings*, the Ninth Circuit affirmed the district court’s denial of a permanent
 26 injunction where the defendant, a labor union for state employees, corrected its unlawful
 27 practice. *See* 316 F.3d at 897–98. By contrast, Respondents’ positions strongly indicate “some

1 cognizable danger of recurrent violation, something more than the mere possibility which serves
 2 to keep the case alive.” *Id.* at 897. In the context of preliminary relief, the Supreme Court has
 3 similarly noted that the claims of the plaintiffs in that case who were previously released on bond
 4 did not become moot “[u]nless th[e] preliminary [relief] was made permanent” because the
 5 plaintiffs still “faced the threat of re-arrest and mandatory detention.” *Nielsen v. Preap*, 586 U.S.
 6 392, 403 (2019) (plurality opinion). Recognizing the threat of re-arrest and mandatory detention,
 7 numerous courts in this district have issued an order enjoining future re-detention without a pre-
 8 deprivation hearing in granting writs of habeas to similarly situated petitioners. *See, e.g., E.A. T.-*
 9 *B.*, 795 F. Supp. 3d at 1324; *Cabrera Perez v. Hermosillo*, No. C25-2542-RSM, 2026 WL
 10 100735, at *6 (Jan. 14, 2026); *Osuna Benitez v. Hermosillo*, No. 2:25-CV-02535-BAT, 2025 WL
 11 3763932, at *6 (W.D. Wash. Dec. 30, 2025); *Francois v. Wamsley*, No. C25-2122-RSM, 2025
 12 WL 3496557, at *4 (W.D. Wash. Dec. 5, 2025); *P.T. v. Hermosillo*, No. C25-2249-KKE, 2025
 13 WL 3294988, at *4 (W.D. Wash. Nov. 26, 2025); *Ramirez Tesara v. Wamsley*, No. C25-1723-
 14 KKE-TLF, 2025 WL 3288295, at *6 (Nov. 25, 2025); *Y.M.M. v. Wamsley*, No. 2:25-cv-02075,
 15 2025 WL 3101782, at *3 (W.D. Wash. Nov. 6, 2025). This (non-comprehensive) list of cases also
 16 underscores that so long as no court order directly prohibits detaining an individual, Respondents
 17 will continue their unlawful practices.

18 It is also well within the Court’s authority to issue equitable relief in a habeas corpus
 19 proceeding. Courts have long recognized that “habeas corpus is, at its core, an equitable
 20 remedy.” *Schlup v. Delo*, 513 U.S. 298, 319 (1995); *see also, e.g., Fay v. Noia*, 372 U.S. 391, 492
 21 (1963) (“[H]abeas corpus has traditionally been regarded as governed by equitable principles.”).
 22 “Equitable relief” is “characterized by flexibility which enables it to . . . accord all the relief
 23 necessary to correct the particular injustices involved.” *Hazel-Atlas Glass Co. v. Hartford-*
 24 *Empire Co.*, 322 U.S. 238, 248 (1944); *see also, e.g., Boumediene v. Bush*, 553 U.S. 723, 779
 25 (2008) (“[C]ommon-law habeas corpus was, above all, an adaptable remedy.”). The equitable
 26 roots of habeas corpus are embodied by “the statutory command that the judge, after granting the
 27 writ and holding a hearing of appropriate scope, [shall] ‘dispose of the matter as law and justice

1 require.” *Fay*, 372 U.S. at 492 (quoting 28 U.S.C. § 2243). It follows, then, that a habeas court
2 has the “power to fashion appropriate relief other than immediate release,” *Preiser v. Rodriguez*,
3 411 U.S. 475, 487 (1973), in order to ensure an effective remedy for unlawful detention.

4 CONCLUSION

5 For all the foregoing reasons, Petitioner respectfully requests that this Court grant him a
6 writ of habeas corpus ordering his immediate release and enjoining Respondents from re-
7 detaining him absent notice and a pre-deprivation hearing at which they must justify any re-
8 detention with clear and convincing evidence of danger or flight risk and demonstrate that no
9 alternative to detention would mitigate those risks.

10 Respectfully submitted this 27th day of January, 2026.

11
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14 **I certify that the foregoing contains 2,097 words,*
15 *in compliance with the Local Civil Rules.*

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