

The Honorable Brian A. Tsuchida

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

KULJEET SINGH,

Petitioner,

v.

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

Respondents¹.

Case No. 2:26-cv-00088-BAT

FEDERAL RESPONDENTS'²
RETURN MEMORANDUM

Federal Respondents respectfully request that the habeas petition filed by Petitioner Kuljeet Singh be denied. Federal Respondents' return is supported by the Declaration of Yralees Melendez ("Melendez Decl.") and Petitioner's immigration records.

¹ Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute Acting Seattle Field Office Director, United States Citizenship and Immigration Services Laura Hermosillo for Camilla Wamsley.

² Bruce Scott, Warden of the Northwest Immigration and Customs Enforcement Processing Center, is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

I. FACTUAL BACKGROUND

Petitioner is a native and citizen of India who entered the United States without being admitted or paroled on or about December 23, 2023, at or near Tecate, California. Melendez Decl., ¶ 4. Petitioner was encountered by Border Patrol agents on or about December 23, 2023. Melendez Decl., ¶ 5. On December 26, 2023, Petitioner was released on an Order of Recognizance ("OREC") due to a lack of detention capacity. Melendez Decl., ¶ 6; Strong Decl., Ex. A. Petitioner was also served a Notice to Appear ("NTA") asserting that Petitioner is inadmissible to the United States pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), in that Petitioner is present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. Melendez Decl., ¶ 6; Strong Decl., Ex. B.

On or about May 11, 2025, Petitioner was arrested by Olympia Police Department. Melendez Decl., ¶ 7. Records indicate Petitioner is presently charged in Washington State Superior Court for Thurston County with Luring with Sexual Motivation in violation of RCW 9A.40.090, Attempted Assault 4th Degree in violation of RCW 9A.36.041(2), Unlawful Imprisonment in violation of RCW 9A.40.040, and Child Molestation 3rd Degree in violation of RCW 9A.44.089(1). Melendez Decl., ¶ 7. Petitioner's criminal case remains pending. Melendez Decl., ¶ 7; *see also State v. Singh*, Case No. 25-1-00597-0, Thurston Cnty. (Wash.) Superior Ct.

On December 1, 2025, Petitioner reported to the Seattle ERO Field Office as required by the OREC reporting requirements. Melendez Decl., ¶ 8. During routine system queries, ERO officers discovered Petitioner's criminal charges. Melendez Decl., ¶ 8. ERO management approved a custody redetermination based on Petitioner's violation of the terms and conditions of Petitioner's OREC. Melendez Decl., ¶ 8. An I-200 Warrant for Arrest was also issued. Melendez Decl., ¶ 8. Petitioner was taken into custody without incident and transferred to the NWIPC.

1 Melendez Decl., ¶ 8. Petitioner is scheduled to appear before an Immigration Judge in the Tacoma
2 Immigration Court on January 27, 2026, for a final hearing on all applications for relief from
3 removal. Melendez Decl., ¶ 9.

4 II. JURISDICTION AND STANDARD OF REVIEW

5 It is axiomatic that “[t]he district courts of the United States ... are courts of limited
6 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
7 *Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope
8 of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day.”
9 *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020).

10 Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas
11 petitions. To warrant a grant of writ of habeas corpus, the burden is on the petitioner to prove that
12 his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28
13 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

14 III. ARGUMENT

15 A. Due process does not require a pre-deprivation hearing before re-detention

16 Petitioner is subject to mandatory detention under Section 1225(b) because he is an
17 applicant for admission. *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025). Section
18 1225(b)(2)(A) requires mandatory detention of “an alien who is an applicant for admission, if the
19 examining immigration officer determines that an alien seeking admission is not clearly and
20 beyond a doubt entitled to be admitted[.]” 8 U.S.C. § 1225(b)(2)(A). The Immigration and
21 Nationality Act (“INA”) specifies that “[a]n alien present in the United States who has not been
22 admitted . . . shall be deemed for purposes of this Act an applicant for admission.” 8 U.S.C. §
23 1225(a)(1). Petitioner does not dispute that he is a noncitizen who is present in the United States
24

1 without having been admitted. Thus, he is an “applicant for admission” and subject to mandatory
2 detention under Section 1225(b).

3 A pre-deprivation hearing to determine whether Petitioner is a flight risk or dangerous was
4 not required prior to his arrest in December 2025. There is no statutory or regulatory requirement
5 for a hearing prior to re-detention, and the Supreme Court has warned courts against reading
6 additional procedural requirements into the INA. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573,
7 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C. § 1231(a)(6)
8 because “reviewing courts . . . are generally not free to impose [additional procedural rights] if the
9 agencies have not chosen to grant them”) (quoting *Vermont Yankee Nuclear Power Corp. v.*
10 *Natural Resources Def. Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)).

11 **B. Petitioner’s detention is consistent with his due process rights**

12 Nevertheless, Federal Respondents acknowledge that district courts have recently found
13 that the revocation of an OREC requires a pre-deprivation hearing to determine if that noncitizen
14 is a flight risk or a danger to the community. *See, e.g., E.A.T.-B. v. Wamsley*, Case No. 25-1192,
15 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025). These procedures should not be required
16 in this case. “Due process is flexible and calls for such procedural protections as the particular
17 situation demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test
18 demonstrates that Petitioner’s detention is consistent with his due process rights. Under *Mathews*,
19 “[t]he fundamental requirement of due process is the opportunity to be heard at a meaningful time
20 and in a meaningful manner.” *Id.* at 333 (internal quotation marks omitted). This calls for an
21 analysis of (1) “the private interest that will be affected by the official action,” (2) “the risk of an
22 erroneous deprivation of such interest through the procedures used, and probable value, if any, of
23 additional or substitute procedural safeguards,” and (3) the Government’s interest. *Id.* at 334-35.

1 Federal Respondents recognize the “weighty liberty interests implicated by the
2 Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at
3 *11 (S.D.N.Y. Aug. 20, 2021). Petitioner’s interest in his liberty, however, does not mean that he
4 possesses a separate or heightened liberty interest in the continuation of his release from ICE
5 detention when he is deemed a risk to the community. While the State charges in Thurston County
6 are still pending, Petitioner had notice that he “must not violate any local, State, or Federal laws
7 or ordinances” while released on an OREC. Strong Decl., Ex. A. The recognized liberty interests
8 of U.S. citizens and aliens who have been ordered removed are not coextensive: the Supreme Court
9 has “firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that
10 would be unacceptable if applied to citizens.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206
11 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has
12 explained, “[i]n the exercise of its broad power over naturalization and immigration, Congress
13 regularly makes rules that would be unacceptable if applied to citizens.” *Mathews v. Diaz*, 426
14 U.S. 67, 79-80 (1976).

15 Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation
16 of Petitioner’s liberty here without a pre-detention hearing is minimal. Moreover, DHS’s
17 regulations provide that even if a noncitizen is initially released because he did not pose a danger
18 or be a flight risk at that time, release may be revoked. 8 C.F.R. § 1236.1(c)(9). Here, DHS decided
19 to revoke that release based on the serious pending criminal charges against him. Melendez Decl.,
20 ¶ 8. These procedures are adequate to protect Petitioner’s liberty interest; if he is entitled to
21 anything, it is to a bond hearing post-deprivation, not release.

22 Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews*
23 test “must account for the heightened government interest in the immigration detention context.”
24 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the Ninth

1 Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in
2 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” 53 F.4th at 1208
3 (quoting *Demore*, 538 U.S. at 518). Furthermore, “the government has an obvious interest in
4 “protecting the public from dangerous criminal [noncitizens].” *Id.* (quoting *Demore*, 538 U.S. at
5 515).

6 Accordingly, due process does not require a pre-deprivation hearing in all circumstances
7 where individuals are detained after being released, including for Petitioner here.

8 IV. CONCLUSION

9 Federal Respondents request that the habeas petition be denied.

10
11 DATED this 22nd day of January, 2026.

12 Respectfully submitted,

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14 United States Attorney

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*I certify that this memorandum contains 1,440
words in compliance with the Local Civil Rules*