

Magistrate Judge Grady J. Leupold

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

G.R.R.,

Petitioner,

vs.

LAURA HERMOSILLO, et al.,

Respondents.

Case No. 2:26-cv-00097-GJL

Agency No. A 

PETITIONER'S TRAVERSE

Oral argument requested

Noted for consideration
February 2, 2026

For his traverse against respondents' return, petitioner states as follows.

I. Summary of petitioner's claim.

Petitioner's claim in summary is that respondents violated his right to due process of law by revoking his bond without first giving him a hearing. For this reason, the court should grant the writ of habeas corpus.

II. Precedent favors petitioner.

Respondents a that "district courts have recently imposed pre-detention hearing requirements in the context of various forms of release. Return, at 6, n.1. Also supporting petitioner's position are *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO (HC), 2025 WL 2617256, *2 (E.D. Cal. Sept 9, 2025) (revocation of an OREC

1 requires a pre-detention hearing to determine if that noncitizen is a flight risk or a
2 danger to the community) and *Pinchi v. Noem*, 792 F.Supp. 3d 1025, 1038 (N.D. Cal
3 2025) (pre-detention hearing required prior to revocation of the petitioner's release on
4 her own recognizance). properly cite *E.A.T.-B v. Wamsley*, 795 F.Supp.3d 1316
5 (WDWA Aug. 19, 2025) authority contrary to their position.
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8 In *E.A.T.-B.*, the petitioner was a citizen of Columbia who entered the United
9 States on or about September 6, 2023, and was thereafter processed for removal
10 proceedings by Border Patrol. *Id.*, at 1319. After two days of detention, an ICE
11 officer released him on an order of recognizance, requiring him to, among other things,
12 enroll in and comply with the Alternatives to Detention ("ATD") program. *Id.* He was
13 ordered to report to the ICE office in Portland, Oregon, and was given a Notice to
14 Appear in immigration court in Portland on December 3, 2024. *Id.* The petitioner
15 filed an application for asylum in February 2024. *Id.*
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19 In *E.A.T.-B.* the petitioner's appearance in immigration court case was continued
20 from December 3, 2024, to June 5, 2025, and in January 2025 his reporting
21 requirements under ATD were reduced. *Id.* In February 2025 USCIS granted him
22 work authorization. *Id.*
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25 When *E.A.T.-B.* appeared at his immigration court hearing, unrepresented by
26 counsel, the government moved to dismiss the removal proceedings to allow it to
27 pursue expedited removal proceedings against him. *Id.* The immigration court
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1 continued the case until June 18, 2025, to allow the petitioner to respond to the
2 government's motion. *Id.* At the June 18, 2025, hearing, petitioner appeared with
3 counsel and the government withdrew its motion to dismiss the proceedings. *Id.*

4
5 Government agents followed E.A.T.-B after he left the court on June 18, 2025,
6 and arrested him under 8 U.S.C § 1226, claiming they were doing so because he'd
7 missed appointments. *Id.* When this was disputed by counsel the agents stated that
8 E.A.T.-B was being arrested because of "'enforcement priorities[.]'" *Id.*

9
10 In *E.A.T.-B*, the court applied the three-part test from *Mathews v. Eldridge*, 424
11 U.S. 319, 332 (1976) to find that the petitioner had a liberty interest protected by the
12 Due Process Clause of the Fifth Amendment. *E.A.T.-B.*, 795 F.Supp., at 1320.

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14 The government argued that because E-A-T.-B had been initially released
15 subject to ATD conditions at ICE's discretion, he could not have a protected interest in
16 his liberty if it depended on the government's discretion. *Id.*, at 1321. This argument
17 was rejected by *E.A.T.-B.*, with the court stating "[t]hat the Government exercises
18 discretion in determining whether and which conditions of release to impose does not
19 eliminate the protections afforded to Petitioner's liberty interest." *Id.* (citations
20 omitted).

21
22 As to the *Mathews* second factor, the risk of erroneous deprivation of liberty,
23 *E.A.T.-B* noted the various explanations given by the government for the petitioner's
24 arrest, and also the government's having reduced his ATD obligation and issued the
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1 petitioner work authorization, “raise[d] concerns that Petitioner’s arrest was not in fact
2 motivated by his ATD violations.” *Id.* The court stated that “ICE’s decision to release
3 Petitioner was based on a consideration of the danger that Petitioner posed to the
4 community and the likelihood that would appear for further hearings.” *Id.*, citing 8
5 C.F.R. § 1236.1(c)(8). The court then stated that “arresting and re-detaining him at
6 this point without first reconsidering those factors poses a significant risk of an
7 erroneous deprivation of Petitioner’s liberty.” *E.A.T.-B.*, 795 F.Supp., at 1322.
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10 *E.A.T.-B.* then considered the third Mathews factor, the government’s interest in
11 civil detention without a hearing, and found that it was low and did not justify re-
12 detention without a hearing after the petitioner had been released. *Id.*, at 1323.
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15 **III. The facts here match precedent and require grant of the writ.**

16 The facts here nearly replicate those of *E.A.T.-B.* Petitioner was encountered by
17 Border Patrol agents in Kennewick, Washington on July 6, 2023. Declaration of
18 Adrian Leyba, Dkt 6, at 2, ¶ 4. They issued to respondent a notice to appear in
19 immigration court. *Id.*, ¶ 5.
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22 On October 18, 2023, petitioner appeared with counsel at an in-custody bond
23 hearing at the NW ICE Processing Center (“NWIPC”) in Tacoma, Washington. *Id.*, at
24 ¶ 6. The immigration judge granted petitioner a bond of \$10,000 with conditions to be
25 added by ICE Enforcement and Removal Operations (“ERO”). And, just as in *E.A.T.-*
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1 B, petitioner here was placed on the Alternatives to Detention (“ATD”) program with
2 periodic check-ins. *Id.*, at ¶ 7.

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4 Now respondents claim that the basis for petitioner’s re-arrest on October 1,
5 2025, was that on August 29, 2025, “ERO was granted use authorization of an
6 INTERPOL Red Notice out of Michoacan, Mexico regarding Petitioner from the U.S.
7 National Central Bureau of the Department of Justice.” *Id.*, at ¶ 8.

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9 The I-213, Record of Deportable/Inadmissible Alien, dated July 6, 2023, related
10 to petitioner’s initial arrest states: “Subject was the target of an ongoing Spokane-SIU
11 investigation. Subject had been initially identified by the FBI -Safe Streets Task Force
12 (in Richland, WA) in June 2023, based on information received from the FBI Attache
13 in Mexico City, Mexico.” Dkt 7-1, at 2. Further details appear on pages 3 and 4 of the
14 I-213. These details though were fully known to the respondents at the time of
15 petitioner’s arrest and were presumably available to them when the immigration court
16 granted bond of \$10,000 on October 18, 2023. Dkt. 7-5. On April 26, 2024, USCIS
17 granted work authorization to petitioner. Dkt 7-6, at 3.

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19 There was a second I-213, related to the petitioner’s re-arrest on October 1,
20 2025. Dkt. 7-6. This states that the petitioner “is the subject of an INTERPOL Red
21 Notice out of Mexico for Kidnapping. ICE OPLA¹ was just granted authorization to
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28 ¹ OPLA stands for “Office of the Principal Legal Advisor” who represents the Department of Homeland Security in
immigration court.

1 use the Red Notice in removal proceedings, and this was used to justify [petitioner]'s
2 re-arrest and bond cancellation." *Id.*, at 2.

3
4 But these considerations did not prevent the immigration court from releasing
5 petitioner on \$10,000 bond on October 18, 2023. The only change in circumstances
6 that respondents allege to justify the re-arrest are that "ICE did not have the required
7 use authorization that would allow the agency to disclose the INTERPOL Red Notice
8 in removal proceedings." Dkt. 5, Return, at 4, lines 14-19.

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11 **A. First *Mathews* factor.**

12 The first *Mathews* factor considers "the private interest that will be affected by
13 the official action[.]" *Mathews*, 424 U.S. at 335. Freedom from detention "is the most
14 elemental" of private interests affected by official action. *Hamdi v. Rumsfeld*, 542 U.S.
15 507, 529 (2004). Even conditional release "is valuable and must be seen as within the
16 protection of the [Due Process Clause]." *Morrissey v. Brewer*, 408 U.S. 471, 482

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18 This same principle applies to noncitizens who are paroled into the United
19 States. See *Espinoza v. Kaiser*, 2025 WL 2675785, at *9 (E.D. Cal. Sept. 18, 2025)
20 ("When an immigrant is placed into parole status after having been detained, a
21 protected liberty interest may arise.").

22
23 Courts in this Circuit have held that a parolee's liberty interest is protected by the
24 Due Process Clause, even if "a statute allows the immigrant's arrest and detention and
25 does not provide for procedural protections." *Id.*: see also *Noori v. LaRose*, 2025 WL
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1 2800149, at *10 (S.D. Cal. Oct. 1, 2025) (concluding that the habeas petitioner has a
2 protected liberty interest "even in his parole status").
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4 Here, Petitioner has a liberty interest protected by the Due Process Clause. That
5 the government allowed Petitioner to remain in the community for more than two years
6 on parole only strengthened this interest. See *Bd. of Pardons v. Allen*, 482 U.S. 369,
7 377-81 (1987) (recognizing that governmental action can create a liberty interest
8 protected by the Due Process Clause); *Johnson v. Williford*, 682 F.2d 868, 873 (9th
9 Cir. 1982) (same).
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12 Petitioner received work authorization the USCIS and so far as can be
13 determined, attended all his scheduled ICE check-ins and court hearings, and otherwise
14 appears to have complied with the conditions of his parole. This shows he was released
15 long enough to "gain[] a foothold in the United States" and "develop ties in this
16 country," thereby changing his constitutional status and affording him a right to due
17 process. *Pablo Sequen v. Kaiser*, 800 F. Supp. 3d 998, 1009 (N.D. Cal. 2025) (citations
18 and quote marks omitted).
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22 Respondents argue that "the weight of [Petitioner's] liberty must be considered
23 in the broader picture of the immigration system, which has long acknowledged that an
24 alien has a less liberty interest than a citizen." Dkt 7, lines 14 to 16.
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26 This general proposition has no bearing on the due process issue here, which is
27 that although the government may detain noncitizens in the deportation process, they
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1 must still be afforded due process protections before they are detained. See *Hernandez*
2 *v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("While the temporary detention of non-
3 citizens may sometimes be justified by concerns about public safety or flight risk, the
4 government's discretion to incarcerate non-citizens is always constrained by the
5 requirements of due process[.]").
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8 Just because petitioner may have a lesser liberty interest compared to others
9 does not mean that he has no liberty interest in his continued freedom. *Fageri v. Scott*,
10 No. 2:26-cv-00003-JHC, 2026 U.S. Dist. LEXIS 14070 (WDWA January 26, 2026), at
11 *9 to *10. Accordingly, the first *Mathews* factor favors petitioner.
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13 **B. Second *Mathews* factor.**
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15 The second *Mathews* factor examines "the risk of an erroneous deprivation of
16 [the petitioner's private] interest through the procedures used, and the probable value,
17 if any, of additional or substitute procedural safeguards[.]" *Mathews*, 424 U.S. at 335.
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19 Here the I-213 documents show that the information about the INTERPOL Red
20 Notice was fully available to the government on July 6, 2023, at the time of the
21 petitioner's arrest, and they would have had that information at the time of the
22 respondent's bond hearing in October 2023.
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24 Respondents claim that somehow DHS had not received authorization to use the
25 Red Notice at the bond hearing. They cite to a document entitled "ICE Directive
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1 15006.1: INTERPOL Red Notices and Wanted Person Diffusion.”² Dkt. 8-1. This
2 directive was issued on August 15, 2023, and effective on September 30, 2023.

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4 ICE Directive 15006 states that “[a] Red Notice or Wanted Person Diffusion is
5 not an international arrest warrant and conveys no legal warrant to arrest, detain, or
6 remove a person.” Dkt 8-1, at 1, ¶ 2. Directive 15006 gives warnings in the directive
7 to be wary about potential misuse of Red Notices by INTERPOL member states. Dkt
8 8-1, at 2, ¶ 2.3³.

9
10 Respondents did not follow Directive 15006 in full. If they had, they would
11 have provided a copy to petitioner and given him an opportunity to contest it: “If use
12 authorization has been granted and ICE personnel still intend to submit the Red Notice
13 or Wanted Person Diffusion during immigration proceedings, then ICE personnel must
14 provide the person with copies of the underlying documentation received from
15 INTERPOL, the member country, as appropriate, **as well as give the person a**
16 **meaningful opportunity to respond to or contest its contents.**” Dkt 8.1, at 6
17 (emphasis added).

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19 Under these circumstances, as the respondents’ own directive recognizes, the
20 chances of erroneous deprivation of liberty are high. See Valdez v. Joyce, 2025 WL
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25 ² http://ice.gov/doclib/foia/dro_policy_memos/15006.1_InterpolRedNoticesWpDiffusions.pdf.

26 ³ “[S]ome countries may be known or suspected of misusing INTERPOL’s Notice and Diffusion system to target
27 dissidents or political opposition figures. These countries may originate Red Notices and Wanted Person Diffusions that
28 superficially appear valid, and they may be published by INTERPOL without the improper motive being uncovered
during INTERPOL’s review process. Likewise, even in countries where misuse or noncompliance is not known or
suspected to be systematic, an underlying arrest warrant or judicial decision may be based on charges that are not legally
sufficient or are fabricated.” Dkt 8-1, at 2.

1 1707737, at *4 (S.D.N.Y. June 18, 2025) ("Petitioner's re-detention without any
2 change in circumstances or procedure establishes a high risk of erroneous deprivation
3 of his protected liberty interest.") see also *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d at
4 1323 (collecting cases). Thus, the second *Mathews* factor favors Petitioner.
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7 **C. Third *Mathews* factor.**

8 The third *Mathews* factor contemplates "the Government's interest, including
9 the function involved and the fiscal and administrative burdens that the additional or
10 substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.
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12 Respondents contend that Petitioner's re-detention is warranted because the
13 government has an interest in "preventing aliens from remaining in the United States in
14 violation of our law." Dkt. 5 at 8, lines 19-21. (citation omitted). Respondents further
15 claim that petitioner is "known to be charged with committing violent crimes." Dkt 5,
16 at 9, lines 4 to 5. But this ignores the fact as stated above, that Directive 15006, which
17 was cited in their return, specifically directs them to provide the Red Notice and
18 supporting documentation and provide to the petitioner meaningful chance to review
19 and contest it. Respondents have recognized in their own documents the need for
20 such an opportunity, and for this reason, the government cannot claim to have a
21 heightened interest in re-detention of the petitioner without a hearing. The third
22 *Mathews* factor favors the petitioner.
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1 **IV. Mandatory detention under 8 U.S.C. § 1225(b) does not apply.**

2 Respondents argue that petitioner is subject to mandatory detention under 8
3 U.S.C. § 1225(b) but they acknowledge that *Rodriguez-Vazquez v. Bostock*, 802
4 F.Supp.3d 1297 (WDWA Sept 30, 2025) is against them. For the reasons stated in
5 *Rodriguez-Vazquez*, this court should not accept this argument by the respondents.
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8 **V. Conclusion.**

9 Because the *Mathews* factors favor petitioner, the court should conclude that
10 petitioner's re-detention without a hearing violates his constitutional right to due
11 process. As a result, he has proven by a preponderance of the evidence that he "is in
12 custody in violation of the Constitution, and a writ of habeas corpus should issue.
13
14

15 DATED this 30th day of January 2026

16 /s/ Michael T. Purcell

17
18 MICHAEL T. PURCELL
19 WSBA #20707
20 Attorney for petitioner
21 P.O. Box 14209
22 Portland, OR 97293
23 (503) 241-8203
24 mpurcell.law@gmail.com
25
26
27
28