

District Judge Lauren King

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

YORBYS RODRIGUEZ CHIRINOS,

Petitioner,

v.

PAMELA BONDI, *et al.*,¹

Respondents.

Case No. 2:26-cv-00109-LK

FEDERAL RESPONDENTS' RETURN
MEMORANDUM

Noted for Consideration:
February 23, 2026

I. INTRODUCTION

This Court should deny Petitioner Yorbys Rodriguez Chirinos' Petition for a Writ of Habeas Corpus. Dkt. 3, Pet., Claim for Relief. U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner pursuant to 8 U.S.C. § 1225(b)(1) after the revocation of his parole previously issued by the U.S. Department of Homeland Security ("DHS"). Petitioner's request for immediate release from immigration detention should be denied because his re-detention without a pre-deprivation hearing is consistent with statute as well as his due process rights. Moreover, Petitioner has not demonstrated that the extraordinary remedy of a permanent

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

injunction is warranted. Accordingly, Federal Respondents respectfully request that the Court deny the Petition.

II. BACKGROUND

A. Petitioner Yorbys Rodriguez Chirinos.

Petitioner, a native and citizen of Venezuela, applied for admission to the United States at the port of entry in El Paso, Texas, on or about May 6, 2024. Andrade Decl., Ex. A, NTA. Immigration officials determined that Petitioner was inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and issued Petitioner a Notice to Appear (“NTA”) placing him in proceedings at the Salt Lake City Immigration Court. Andrade Decl., Ex. A, NTA. Petitioner was released on parole² pursuant to 8 U.S.C. § 1182(d)(5) and scheduled for a hearing at the Salt Lake City Immigration Court on August 2, 2027. Andrade Decl., Ex. A, NTA; Ex. B, Form I-213.

On September 1, 2024, Petitioner was arrested for driving under the influence in violation of Utah Code Ann. (“U.C.A.”) § 41-6a-502(a). Andrade Decl., Ex. G at 6. On January 8, 2025, Petitioner pleaded guilty to the lesser charge of impaired driving under U.C.A. § 41-6a-502.5(1). Andrade Decl., Ex. G at 6-7. On September 23, 2024, less than one month after his first arrest, Petitioner was charged with felony aggravated assault under U.C.A. §§ 76-5-103(2), (3)(a), and concurrently charged with public intoxication under U.C.A. § 76-9-701. Andrade Decl., Ex. G at 7. On October 8, 2025, Petitioner was again charged with felony aggravated assault and public intoxication under the same two statutory provisions. Andrade Decl., Ex. G at 7-8.

//

² While Petitioner indicates he was previously released from custody pursuant to an Order of Supervision (“OSUP”), nothing in the record suggests that he has been ordered removed. Dkt. 3, Pet. at 3; Bloom Decl. ¶ 16; Andrade Decl., Ex. F, Notice of Hearing. Information regarding the conditions of Petitioner’s parole consists solely of the details in his NTA and I-213, *i.e.*, that he was “paroled into the United States pursuant to” 8 U.S.C. § 1182(d)(5). Andrade Decl., Ex. A at 1, NTA; Ex. B at 2, I-213.

1 On October 8, 2025, ICE officials issued a warrant for his arrest. Andrade Decl., Ex. C at
2 2, Warrant for Arrest. On that same day, ICE officials encountered Petitioner at the South Lake
3 City Metro Jail, though it is unclear whether Petitioner was provided with written notice of the
4 termination of his parole. Bloom Decl. ¶ 7; Andrade Decl., Ex. C at 7, I-213. On November 22,
5 2025, ICE officials arrested Petitioner at or near the Salt Lake City Metro Jail. Bloom Decl. ¶ 8;
6 Andrade Decl., Ex. C at 7, I-213. Petitioner's removal proceedings were subsequently transferred
7 to the Tacoma Immigration Court, where they remain pending. Bloom Decl. ¶¶ 15-16; Andrade
8 Decl., Ex. F, Notice of Hearing.

9 On December 16, 2025, a Tacoma Immigration Judge ("IJ") denied Petitioner's request
10 for bond, concluding the court lacked the authority to hear his bond request. Andrade Decl., Ex.
11 D, Bond Order (citing *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), *Matter of Q. Li*, 29 I&N
12 Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)). During his
13 bond hearing, Petitioner expressed his intent to file Form I-589, Application for Asylum and
14 Withholding of Removal ("Form I-589"). Bloom Decl. ¶ 11. To date, Petitioner has yet to file
15 an application for relief from removal. Bloom Decl. ¶ 15. On December 28, 2025, ICE served
16 notice on Petitioner of its intent to remove him to Mexico. Bloom Decl. ¶ 12; Andrade Decl., Ex.
17 E, Notice of Removal. Petitioner is currently scheduled for a hearing on February 26, 2026, at
18 the Tacoma Immigration Court, during which he may seek to file a Form I-589 expressing his
19 fear of removal as to both Venezuela and Mexico. Andrade Decl., Ex. F, Notice of Hearing.

20 **B. Legal Background**

21 Congress established the expedited removal process in 8 U.S.C. § 1225(b)(1) to ensure
22 that the Executive could "expedite removal of aliens lacking a legal basis to remain in the United
23 States." *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v.*
24 *Thuraissigiam*, 591 U.S. 103, 106 (2020) ("[Congress] crafted a system for weeding out patently

meritless claims and expeditiously removing the aliens making such claims from the country.”). Section 1225 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in the United States who [have] not been admitted” or “who arrive[] in the United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Yajure Hurtado*, 29 I&N Dec. at 218.

As relevant here, section § 1225(b)(1) applies to noncitizens initially determined to be inadmissible due to lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i) (citing § 1182(a)(7)). Petitioner is an arriving alien because he applied for admission “coming or attempting to come into the United States at a port-of-entry” on May 6, 2024, without valid entry documents. 8 C.F.R. § 1.2 (defining arriving alien); Andrade Decl., Ex. A, NTA. In addition, the regulations make clear that an arriving alien “remains an arriving alien even if paroled pursuant to [8 U.S.C § 1182(d)(5)(A)], and even after any such parole is terminated or revoked.” 8 C.F.R. § 1.2; 8 C.F.R. § 1001.1(q). Accordingly, Petitioner is subject to mandatory detention under § 1225(b)(1). *See Jennings*, 583 U.S. at 300 (concluding §§ 1225(b)(1) and (b)(2) “unequivocally” require the detention of noncitizens falling within their scope).

The Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit on the length of detention and whether such noncitizens detained under this statutory authority have a statutory right to a bond hearing. *See Jennings*, 583 U.S. at 297-303. The Supreme Court held that “nothing in the statutory text [of 8 U.S.C. § 1225(b)] imposes any limit on the length of detention” nor “says anything whatsoever about bond hearings.” *Id.* at 297.

The sole means of release from detention pursuant to Section 1225(b) is temporary parole “for urgent humanitarian reasons or significant public benefit.” *Id.* at 288 (quoting 8 U.S.C §

1 1182(d)(5)(A)). This parole terminates automatically at the expiration of the time for which
2 parole was authorized, or upon service of a charging document for either expedited removal
3 proceedings under Section 1225(b) or removal proceedings under Section 1229a. 8 C.F.R.
4 § 212.5(e). As noted above, upon termination of parole, the applicant reverts to the status that he
5 or she had at the time of parole. *Id.*

6 Petitioner does not dispute that he is a noncitizen who is present in the United States
7 without having been admitted. He is therefore properly considered to be an “arriving alien”
8 subject to mandatory detention under Section 1225(b)(1). However, Petitioner challenges his re-
9 detention in November 2025 as violative of procedural due process rights. Dkt. 3, Pet. at 2. He
10 argues that the DHS was required to provide him with written notice and a pre-detention hearing
11 before a neutral arbiter. Although Federal Respondents acknowledge that many district courts
12 have found that due process requires pre-detention hearings prior to re-detention of noncitizens,
13 for the reasons set forth below, due process did not require a pre-detention hearing here.

14 III. LEGAL STANDARD

15 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
16 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
17 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he
18 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present
19 day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C.
20 § 2241 provides district courts with jurisdiction to hear federal habeas petitions.

21 To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or
22 her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C.
23 § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

24 //

IV. ARGUMENT

A. No pre-deprivation hearing was required before re-detention under § 1225(b)(1).

Petitioner's re-detention without a pre-deprivation hearing does not violate due process because he remains an arriving alien subject to the mandatory detention framework of § 1225(b)(1), and his prior release on parole was discretionary and revocable. *See Jennings*, 583 U.S. at 288 (citing 8 U.S.C. § 1182(d)(5)(A)).

"Due process is flexible and calls for such procedural protections as the particular situation demands." *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). *Mathews* calls for an analysis of (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional or substitute procedural safeguards," and (3) the Government's interest. *Id.*, at 334-35. The circumstances in the instant case do not support a blanket requirement of written notice and a hearing prior to Petitioner's detention.

Due process does not mandate a pre-detention hearing here. As the Supreme Court has explained, "[i]n the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). As to the first *Mathews* factor, Federal Respondents recognize the "weighty liberty interests implicated by the Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released from immigration detention have a protected liberty interest in remaining out of custody, the weight of that liberty must be considered in the broader picture of the immigration system, which has long acknowledged that noncitizens have a lesser liberty interest than a citizen. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) ("The recognized liberty interests of U.S. citizens and aliens are not coextensive: the

1 Supreme Court has ‘firmly and repeatedly endorsed the proposition that Congress may make rules
2 as to aliens that would be unacceptable if applied to citizens.’”) (quoting *Demore v. Kim*, 538
3 U.S. 510, 522 (2003)). Indeed, the Supreme Court has repeatedly “recognized detention during
4 deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore*,
5 538 U.S. at 523. Thus, Federal Respondents acknowledge that Petitioner had some liberty interest
6 in his continued freedom from detention while on parole.

7 Nevertheless, the regulations authorizing the DHS to release a noncitizen on parole
8 pursuant to 8 U.S.C. § 1182(d)(5)(A) provide for release only if such individual presents “neither
9 a security risk nor a risk of absconding.” 8 C.F.R. § 212.5(b). The regulatory framework makes
10 clear that Petitioner’s parole was contingent on the conditions that he remained neither a flight
11 risk nor danger to the community. By accepting parole, Petitioner implicitly undertook an
12 obligation to comply with the laws of the United States – an obligation he has since repeatedly
13 breached. Andrade Decl., Ex. C at 7-8, I-213; Ex. G at 6-8. Petitioner’s repeated criminal
14 infractions therefore materially diminished his reliance interest in continued liberty while on
15 parole.

16 Importantly, as an arriving alien who was paroled into the United States, Supreme Court
17 precedent requires a “legal fiction” to be imposed on Petitioner so that he is treated as at the
18 threshold of entry – as opposed to within this country’s borders[.]” *Thuraissigiam*, 591 U.S. at
19 107. As a result, Petitioner remains in a fundamentally different and less protected position than
20 “those who are within the United States after an entry, irrespective of its legality.” *Leng May Ma*
21 *v. Barber*, 357 U.S. 185, 187 (1958). Federal Respondents acknowledge this Court has disagreed
22 with the applicability of the legal fiction doctrine to noncitizens who have been “liv[ing] with
23 relative freedom in the United States for . . . years.” *Dieng v. Hermosillo, et al.*, No. 2:26-CV-
24 00190-LK, 2026 WL 411857 at *8 (W.D. Wash. Feb. 13, 2026) (quoting *Rincon v. Hyde*, No. CV

1 25-12633-BEM, 2025 WL 3122784, at *6 (D. Mass. Nov. 7, 2025)). However, Federal
2 Respondents contend that the instant case is distinguishable in two material respects.

3 First, it cannot be said that Petitioner has been living in the United States with relative
4 freedom for “years,” *id.* (emphasis added), Petitioner has been present in the United States for
5 less than two full years and was arrested for driving under the influence just four months into his
6 parole. Andrade Decl., Ex. G at 6. Second, during the short time he has been present in the
7 country, Petitioner has accumulated one misdemeanor conviction for impaired driving and two
8 separate felony charges for aggravated assault, all seemingly while under the influence of alcohol.
9 Andrade Decl., Ex. G at 6-8. These unique circumstances distinguish this case from precedent
10 and require the application of a different standard. Thus, while Federal Respondents acknowledge
11 this Court’s contrary decisions, Respondents argue such rulings should not be extended to the
12 circumstances presented here.

13 Turning to the second *Mathews* factor, the risk of a constitutionally significant and
14 erroneous deprivation of Petitioner’s liberty does not necessitate a pre-deprivation hearing. In
15 *Martinez Hernandez*, the district court found that allegations of violations on the conditions of a
16 noncitizen’s parole that “are not obviously pretextual as in *E.A.T.-B*”³ provided at least an
17 arguable basis “that providing [the petitioner] with notice and a pre-deprivation hearing would
18 have been impracticable and/or would have motivated his flight.” *Martinez Hernandez v.*
19 *Andrews*, No. 1:25-CV-01035 JLT HBK, 2025 WL 2495767 *11-12 (E.D. Cal. Aug. 28, 2025).
20 Given Petitioner’s repeated criminal conduct and status as an arriving alien subject to mandatory
21 detention, the risk of erroneous deprivation would have been minimal, while the public-safety
22 burdens of providing him with advance notice and process would have been substantial. There
23

24 ³ *E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).

1 can be no reasonable argument that that Petitioner's pending criminal charges, in addition to his
2 previous condition, constitute "pretextual" reasons for his re-detention. These objective factors
3 provided ICE with at least an arguable basis for Petitioner's re-detention without notice and a pre-
4 deprivation hearing. If this Court were to order a hearing, a "prompt, post-deprivation process"
5 would be constitutionally adequate under these circumstances. *Id.*

6 Regarding the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews*
7 test and procedural safeguards "must account for the heightened government interest in the
8 immigration detention context." *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court's
9 2003 *Demore* decision, the Ninth Circuit in *Rodriguez Diaz* recognized that "the government
10 clearly has a strong interest in preventing aliens from 'remain[ing] in the United States in violation
11 of our law.'" *Rodriguez Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). "This is
12 especially true when it comes to determining whether removable aliens must be released on bond
13 during the pendency of removal proceedings." *Rodriguez Diaz*, 53 F.4th at 1208. Here, the
14 government's interests in public safety, efficient enforcement, and prevention of flight are
15 substantial and heightened by Petitioner's intervening criminal conduct. Petitioner's failure to
16 express his fear of removal to Venezuela, or his intent to file an asylum application, prior to his
17 detention further underscores that a pre-deprivation hearing would have increased the likelihood
18 that he would abscond. Andrade Decl., Ex. C at 8, I-213; Bloom Decl. ¶ 11.

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

21 **B. Petitioner is not entitled to parole under 8 U.S.C. § 1182(d)(5)(A).**

22 Petitioner has not shown that he is in immigration custody in violation of the Constitution,
23 law, or treaties of the United States. 28 U.S.C. § 2241. As explained above, ICE lawfully detains
24 him pursuant to § 1225(b)(1), which mandates the detention of arriving aliens. Individuals

1 detained under § 1225(b), including Petitioner, are not entitled to parole under § 1182(d)(5)(A)
2 because the statute confers only discretionary parole authority and creates no enforceable right to
3 release. The statutory language states, in relevant part, that “[t]he Secretary of Homeland Security
4 may,” parole any applicant for admission “in [her] discretion” and “under such conditions as [s]he
5 may prescribe only on a case-by-case basis.” *Id.* (emphasis added).

6 The mere fact that Petitioner was previously granted parole does not create any entitlement
7 to his continued release, as such parole remains wholly discretionary. *See Matter of Castillo-*
8 *Padilla*, 25 I&N Dec. 257, 259-61 (BIA 2010) (discussing the distinction between conditional
9 parole under 8 U.S.C. § 1226(a) and parole into the United States under 8 U.S.C. §
10 1182(d)(5)(A)). This is especially so where, as here, Petitioner repeatedly violated the law and
11 endangered community safety. Accordingly, Petitioner cannot claim a right to release “under his
12 most recent conditions of” parole, and this Court should not grant his request for immediate
13 release from detention. Dkt. 3, Pet. at 5. Should this Court grant any relief on the instant Petition,
14 it should order a bond hearing at which the IJ conducts an individualized assessment of
15 Petitioner’s danger to the community and likelihood of flight.

16 **C. Petitioner cannot meet the required elements for injunctive relief.**

17 This Court should deny Petitioner’s request for permanent injunctive relief barring future
18 detention without certain conditions. Dkt. 3, Pet. at 5; *see also eBay Inc. v. MercExchange,*
19 *L.L.C.*, 547 U.S. 388, 391 (2006) (explaining factors required for permanent injunctive relief).

20 Petitioner seeks injunctive relief that would require this Court to speculate as to his future
21 detention. “To have standing to assert a claim for prospective injunctive relief, a plaintiff must
22 demonstrate ‘that he is realistically threatened by a repetition of [the violation].’” *G.A.A. v.*
23 *Chestnut*, No. C25-1102, 2025 WL 3251316, at *7 (E.D. Cal. Nov. 21, 2025) (quoting *City of Los*
24 *Angeles v. Lyons*, 461 U.S. 95, 109 (1983)). Petitioner has not shown that his future detention is

1 imminent or even likely, as opposed to contingent on circumstances not currently present,
2 including Petitioner's future conduct, compliance with legal obligations, or case-specific
3 immigration enforcement determinations. Because Petitioner's re-detention rests on a series of
4 circumstances that may never occur, he cannot show that he will suffer irreparable harm absent
5 the requested injunctive relief.

6 In sum, Petitioner is lawfully detained, and this Court should deny his request for
7 immediate release from detention as well as his request for injunctive relief.

8 **V. CONCLUSION**

9 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
10 the Petition.

11 DATED this 17th day of February, 2026.

12 Respectfully submitted,

13 s/ Barbara Andrade

14 BARBARA ANDRADE, Fla. Bar No. 1025074

15 Special Assistant United States Attorney

16 United States Attorney's Office

17 Western District of Washington

18 700 Stewart Street, Suite 5220

19 Seattle, Washington 98101-1271

20 Phone: 206-553-7970

21 Fax: 206-553-4067

22 Email: barbara.andrade@usdoj.gov

23 *Attorney for Federal Respondents*

24 *I certify that this memorandum contains 3,067
words, in compliance with Local Civil Rules*

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers.

I further certify on today's date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify on today's date, I arranged for service of the foregoing on the following non-CM/ECF participant(s), via Certified Mail with return receipt, postage prepaid, addressed as follows:

Yorbys Rodriguez Chirinos, *Pro Se Petitioner*
A#
NW ICE Processing Center
1623 E. J Street, Suite 5
Tacoma, WA 98421-1615

DATED this 17th day of February, 2026.

s/ Katie Reed-Johnson

KATIE REED-JOHNSON, Legal Assistant
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, WA 98101
Phone: (206) 553-7970
Fax: (206) 553-4073
Email: katherine.reed-johnson@usdoj.gov