

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

SAMIULLAH SAFI,

Petitioner,

v.

Kristi NOEM, Secretary of U.S. Department
of Homeland Security;
Pamela BONDI, United States Attorney
General;
Todd LYONS, Acting Director, U.S.
Immigration and Customs Enforcements;
Laura HERMOSILLO, Acting Seattle Field
Office Director, Immigration and Customs
Enforcement;
Bruce SCOTT, Warden, Northwest ICE
Processing Center;

Respondents.

Case No. 2:26-cv-00308-TLF

**PETITIONER'S TRAVERSE IN
RESPONSE TO FEDERAL
RESPONDENTS' RETURN**

I. INTRODUCTION

Federal Respondents' Return does not meaningfully dispute the operative facts of this case. Respondents concede that Samiullah Safi was released from ICE custody on an Order of Release on Recognizance in October 2023, lived in the community for more than two years, complied with all reporting and supervision requirements, and was abruptly re-detained on December 5, 2025 near Peace Arch in Blaine, Washington. Respondents further concede that this

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1 re-detention occurred without advance written notice, without a hearing, and without any prior
2 individualized determination by a neutral decisionmaker regarding flight risk or danger.

3 Rather than contest these facts, Respondents attempt to justify this unconstitutional
4 deprivation of liberty by retroactively labeling Mr. Safi's re-detention as "mandatory" under INA
5 § 1225(b) and by asserting that due process did not require any pre-deprivation safeguards. As
6 applied to Mr. Safi, these arguments are legally incorrect, internally inconsistent with
7 Respondents' own conduct, and foreclosed by controlling precedent in this District.

8 Because ICE revoked Mr. Safi's established liberty interest without the most basic
9 procedural protections required by the Fifth Amendment, the Petition should be granted and Mr.
10 Safi ordered immediately released.

11 **II. RESPONDENTS' § 1225(b) "MANDATORY DETENTION" THEORY FAILS**
12 **AS APPLIED TO SAMIULLAH SAFI**

13 Respondents' central argument, that Mr. Safi was subject to mandatory detention under 8
14 U.S.C. § 1225(b) and therefore not entitled to a pre-deprivation hearing, fails both legally and
15 factually.

16 ***A. Mr. Safi Was Not Re-Detained Pursuant to § 1225(b)***

17 Section 1225(b) applies only to "applicants for admission" who are apprehended at the
18 border during initial inspection or placed in expedited removal. 8 U.S.C. § 1225(a)(1). It does not
19 govern individuals who have already been paroled into the United States, released into the
20 community, and subjected to ongoing supervision.

21 Mr. Safi was paroled in October 2023 and lived freely in the community for more than
22 two years. He complied with all reporting requirements, appeared for all required check-ins, and
23 pursued immigration relief. He was not apprehended during initial inspection, nor was he placed
24 in expedited removal proceedings. At the time of his arrest, he was located approximately 800
25 feet south of the Canadian border inside United States territory.

1 These facts reflect discretionary immigration enforcement, not mandatory detention.
2 Mandatory detention regimes do not involve post-release custody redeterminations, managerial
3 approval, or discretionary arrest warrants issued years after release.

4 Courts in this District have repeatedly rejected the Government's attempt to retroactively
5 reclassify such discretionary re-detention as "mandatory" under § 1225(b). See *E.A.T.-B. v.*
6 *Wamsley*; *Ramirez Tesara v. Wamsley*; *Kumar v. Wamsley*; *Ledesma Gonzalez v. Bostock*.

7 ***B. Even Assuming § 1225(b) Applied, Due Process Still Required a Pre-Deprivation***
8 ***Hearing***

9 Even if Respondents could properly invoke § 1225(b), that statutory label does not
10 eliminate constitutional due process.

11 This Court has already held that when DHS seeks to re-detain an individual who was
12 previously released and living in the community, due process independently requires advance
13 notice and a hearing before a neutral decisionmaker, even where the Government asserts
14 mandatory detention. *E.A.T.-B. v. Wamsley*.

15 Respondents' reliance on *Johnson v. Arteaga-Martinez* is misplaced. That decision
16 addressed whether courts may impose statutory bond-hearing requirements; it did not authorize
17 the Government to revoke liberty without any process at all. Nothing in *Arteaga-Martinez* permits
18 ICE to summarily seize a previously released individual without notice or a hearing.

19 **III. RESPONDENTS MISAPPLY THE MATHEWS v. ELDRIDGE FRAMEWORK**
20 **TO MR. SAFI**

21 Respondents concede that the *Mathews v. Eldridge* test governs the due process analysis.
22 Applied to Mr. Safi's actual circumstances, every factor weighs decisively in favor of requiring a
23 pre-deprivation hearing.

24 ***A. Mr. Safi's Liberty Interest Is Exceptionally Strong***
25

1 Mr. Safi was not a newly arriving noncitizen seeking initial admission. He had been paroled
2 into the United States, released from custody, and living in the community under ICE supervision
3 for more than two years before his re-detention.

4 His interest in remaining free from physical confinement “is the most elemental of liberty
5 interests.” Hamdi v. Rumsfeld, 542 U.S. 507, 529 (2004). Since his initial release in 2023, Mr.
6 Safi established stable community ties in Washington, obtained employment, and maintained
7 consistent compliance with ICE supervision.

8 Even where the Government initially possesses discretion to detain or release, its decision
9 to release a noncitizen on parole creates “a protected liberty interest in remaining out of
10 custody.” Pinchi v. Noem, 793 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025).

11 Respondents’ attempt to minimize this interest based on Mr. Safi’s immigration status is
12 contrary to settled precedent recognizing that freedom from physical detention lies at the core of
13 the Due Process Clause.

14 ***B. The Risk of Erroneous Deprivation Was Especially High in Mr. Safi’s Case***

15 ICE re-detained Mr. Safi without a hearing and based its decision exclusively on:

- 16
- 17 • no neutral adjudication
 - 18 • no opportunity for Mr. Safi to be heard
 - 19 • no assessment of alternatives

20 Mr. Safi has no criminal case history in the United States or any other country. Without a
21 hearing, ICE made a unilateral determination that Mr. Safi should be deprived of liberty based on
22 untested allegations, exactly the type of erroneous deprivation due process is designed to prevent.

23 A pre-deprivation hearing would have allowed a neutral decisionmaker to assess whether
24 detention was actually necessary, whether Mr. Safi posed any danger or flight risk, and whether
25 less restrictive alternatives could suffice.

26 ***C. The Government’s Interest Does Not Outweigh the Required Safeguards***

1 Providing Mr. Safi with written notice and a prompt pre-deprivation hearing would have
2 imposed minimal administrative burden. ICE already conducted a custody review, issued
3 paperwork, and executed an arrest. Requiring basic constitutional process before revoking liberty
4 does not meaningfully impair the Government's interests.

5 As this Court has repeatedly held, the Government's asserted interest in re-detaining
6 previously released individuals does not outweigh the substantial risk of erroneous deprivation
7 where no hearing is provided.

8 **IV. POST-DEPRIVATION PROCESS CANNOT CURE THE VIOLATION**
9 **SUFFERED BY MR. SAFI**

10 Respondents argue that Mr. Safi may receive a bond hearing after his re-detention. That
11 argument concedes the central defect in their conduct: ICE deprived Mr. Safi of his liberty first
12 and proposed to justify that deprivation later. The Constitution does not permit such backward
13 process.

14 Mr. Safi's claim is not merely about access to a future bond hearing. It concerns the
15 Government's unilateral seizure of his liberty without advance notice, without an opportunity to
16 be heard, and without any neutral determination of necessity. As this Court has repeatedly
17 recognized, a post-deprivation hearing cannot retroactively legitimize an unconstitutional arrest
18 and detention.

19 Permitting the Government to cure due process violations through belated hearings would
20 invert the Fifth Amendment's protections and render pre-deprivation safeguards meaningless.
21 Under Respondents' theory, ICE could summarily imprison previously released individuals at
22 will, so long as it offered process sometime later. That is precisely the form of arbitrary detention
23 the Due Process Clause was designed to prevent.

24 Due process requires that liberty be protected before it is taken—not conditionally
25 restored after it has already been wrongfully stripped away.

V. RELIEF

Because ICE summarily revoked Mr. Safi's release without written notice, without a pre-deprivation hearing, and without any individualized finding of danger or flight risk by a neutral decisionmaker, his detention is unconstitutional under the Fifth Amendment.

In cases involving materially indistinguishable facts, this Court has consistently recognized that post-deprivation process is inadequate as a matter of law, and that the only effective remedy for such a due process violation is immediate release, not continued confinement pending a belated bond hearing.

DATED this 12th day of February, 2026.

MULTANI LAW GROUP, PLLC

/s/ Jashan Multani

Jashan Multani, WSBA #60073

Attorney for Plaintiff Samiullah Safi.

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