

District Judge Tana Lin

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

JAVIER EDUARDO MARQUEZ RUJANO,

Petitioner,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT, NORTHWEST
DETENTION CENTER,¹

Respondents.

Case No. 2:26-cv-00325-TL

FEDERAL RESPONDENT'S
RESPONSE TO PETITIONER'S
TRAVERSE [PER DKT. 14]

Noted for Consideration:
March 19, 2026.

Federal Respondent submits this response pursuant to the Court's March 9, 2026 Minute Order permitting a brief response to new arguments raised in Petitioner's Traverse. Federal Respondent addresses only those issues not already fully addressed in the Return. *See* Dkt. 6.

A. Petitioner's BIA Appeal Does Not Create a "Stay" Altering the Detention Framework

Petitioner errs in arguing that his appeal to the Board of Immigration Appeals ("BIA") triggers a "stay of removal." As explained in the Return, Petitioner's removal order is not yet administratively final while administrative review at the BIA remains pending. *See* Dkt. 6 at 8-9.²

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

² Citations to Dkt. 6 refer to the document's internal pagination rather than the pagination generated by the Court's CM/ECF system.

1 Because the order is not administratively final, Petitioner remains in pre-order detention, which is
2 governed by 8 U.S.C. § 1225(b). *Id.*

3 Petitioner's argument also conflicts with his claim that he is detained under § 1226(a).
4 Petitioner cannot simultaneously argue that removal has already been ordered (and is stayed) while
5 also asserting that he remains in pre-order detention under § 1226(a).

6 **B. Petitioner Remains Subject to Mandatory Detention Under § 1225(b)**

7 Petitioner argues that his detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C.
8 § 1225(b)(1). However, this argument fails to recognize Petitioner as an arriving alien rather than
9 as a person present in the United States for an extended period. Federal Respondent's Return
10 addresses this argument. *See* Dkt. 6 at 8-9. Petitioner entered the United States without admission
11 or parole and was charged as inadmissible. *Id.* Under the Immigration and Nationality Act, a
12 noncitizen who has not been admitted remains an "applicant for admission" subject to the
13 detention provisions of 8 U.S.C. § 1225(b). *Id.*

14 The Supreme Court has confirmed that §§ 1225(b)(1) and (b)(2) mandate detention for
15 applicants for admission during the pendency of removal proceedings. *Jennings v. Rodriguez*,
16 583 U.S. 281, 287 (2018); *see also* Dkt. 6 at 1, 8.

17 Petitioner's prior release on an order of recognizance does not change the statutory
18 detention authority governing applicants for admission. *See* Dkt. 6 at 6-7.

19 **C. The Revocation Analysis Is Fully Addressed in the Return**

20 Petitioner's Traverse largely reiterates his claim that due process required a hearing before
21 his re-detention. Federal Respondent addressed that argument in detail in the Return. *See* Dkt. 6
22 at 9-11. As explained there, due process is determined on a case-by-case basis under the framework
23 articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976), and courts evaluate re-detention claims
24

1 under that balancing test rather than imposing a categorical pre-deprivation hearing requirement.
2 Dkt. 6 at 9-10.

3 Because the Traverse raises no new legal theory altering that analysis, Federal Respondent
4 relies on the reasoning set forth in the Return. *See* Dkt. 6 at 9-11.

5 Even if the Court were to find additional process warranted, which Federal Respondent
6 respectfully submits it should not, the appropriate remedy would be a post-custody hearing before
7 an immigration judge rather than immediate release.

8 ***

9 For the foregoing reasons, Federal Respondent respectfully requests that this Court deny
10 the Petition.

11 Dated this 16th day of March, 2026.

12 Respectfully submitted,

13 *s/ Alixandria K. Morris*

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24 I certify that this memorandum contains 507 words,
in compliance with the Local Civil Rules.