

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

GURPREET SINGH,

Petitioner,

v.

Kristi NOEM, Secretary of U.S. Department
of Homeland Security;
Palmela 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-00555-RAJ

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

I. INTRODUCTION

Federal Respondents' Return does not meaningfully dispute the operative facts. Respondents concede Mr. Singh entered the United States and lived in the community for years without Department of Homeland Security (DHS) encounter. Respondents also concede that Mr. Singh filed an Asylum application affirmatively with USCIS in April 2018. USCIS denied the application in September 2018 and referred the Petitioner to the Immigration Court. Respondents

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

PAGE 1 OF 10

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1 concede that DHS issued a Notice to Appear and placed Mr. Singh in removal proceedings on
2 September 18, 2018. Petitioner has lived in the community for more than nine years and was
3 detained on February 02, 2026.

4 Respondents allege that on February 02, 2026, the Canadian Border Service Agency
5 returned Petitioner to the United States after he attempted to enter Canada without inspection or
6 proper documentation at Blaine, Washington Peace Arch Port of Entry. DHS officers issued a
7 Form I-200 an Administrative Warrant, not signed by a Judge and arrested Petitioner and
8 transported him to Northwest Ice Processing Center (NWIPC) in Tacoma, Washington.

9 The issue before this Court is not whether CBP believes the Petitioner violated the terms
10 of his release. The issue is whether the Government may revoke a previously granted liberty
11 interest and incarcerate a person without first providing the procedural protections required by the
12 Fifth Amendment. It may not.

13 Respondents attempt to justify this deprivation of liberty by recharacterizing Mr. Singh's
14 re-detention as "mandatory" under INA § 1225(b) and by arguing that due process did not require
15 any pre-deprivation safeguards. As applied to Mr. Singh, these arguments are legally incorrect,
16 internally inconsistent with Respondents' own actions, and foreclosed by controlling precedent
17 from this Court.

18 Because ICE revoked Mr. Singh's established liberty interest without the most basic
19 procedural protections required by the Fifth Amendment, the Petition should be granted and Mr.
20 Singh ordered immediate release.

21 **II. RESPONDENTS' § 1225(b) "MANDATORY DETENTION" THEORY FAILS**
22 **AS APPLIED TO PETITIONER GURPREET SINGH**

23 Respondents' central argument, that Mr. Singh was subject to mandatory detention under
24 8 U.S.C. § 1225(b) and therefore not entitled to a pre-deprivation hearing, fails both legally and
25 factually.

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

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

PAGE 2 OF 10

MULTANI LAW GROUP
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1 DHS expressly exercised discretionary custody authority under INA § 236 when it issued
2 a Notice to Appear to Mr. Singh in 2018 after USCIS denied his Asylum application. Mr. Singh
3 was placed into removal proceedings under INA § 240 upon issuance of his Notice to Appear.

4 The Government's own documents demonstrate that DHS made an express custody
5 determination when it placed Mr. Singh in removal proceedings. Having exercised discretionary
6 custody authority DHS cannot retroactively reclassify Petitioner's detention as arising under §
7 1225(b) almost nine years later absent a new statutory trigger or new entry event.

8 8 U.S.C. § 1225(b) applies to "applicants for admission" to the United States, who are
9 defined as an "alien present in the United States who has not been admitted or who arrives in the
10 United States" 8 U.S.C. § 1225(a)(1).

11 Having made a § 236 custody determination and released Petitioner into the community,
12 DHS cannot retroactively reclassify him as subject to § 1225(b) absent a new statutory trigger or
13 new entry event. The statutory scheme does not permit "reversion" from § 236 custody authority
14 back to § 1225(b) after release.

15 Section 1225 governs initial inspection and admission determinations. Once a noncitizen
16 is processed, placed into § 240 proceedings, and released under § 236, detention authority flows
17 from § 1226, not § 1225. See 8 U.S.C. §§ 1225, 1226.

18 Mr. Singh's re-detention did not occur at the border, during initial inspection, or in the
19 context of expedited removal.

20 Respondents' own exhibits confirm that Petitioner was not undergoing inspection for
21 admission into the United States. The documents submitted by Respondents show that Canadian
22 authorities refused Petitioner entry into Canada under the Safe Third Country Agreement and
23 returned him to U.S. officials. Ex. 3. At that point, Petitioner was already inside the United States
24 and in ongoing removal proceedings that had been pending since 2018. Ex. 1–2. The Government's
25 own Form I-213 further confirms that CBP simply conducted a records check, identified
26 Petitioner's existing immigration case, and then chose to detain him. Ex. 4. Nothing in these

27
**PETITIONER'S TRAVERSE
IN RESPONSE TO FEDERAL
RESPONDENTS' RETURN**

PAGE 3 OF 10

MULTANI LAW GROUP
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1 records reflects a new application for admission, a new entry event, or any inspection process
2 triggering §1225 detention authority.

3 The Government therefore attempts to convert an interior enforcement arrest into a border
4 inspection event after the fact, a theory that finds no support in the statutory framework governing
5 §1225 detention.

6 Instead, DHS placed Mr. Singh in removal proceedings and issued an NTA in September
7 2018. Thereafter, Petitioner lived freely in the community, complied with the requirements of his
8 immigration proceedings, and pursued immigration relief.

9 These facts reflect discretionary enforcement, not mandatory detention. Mandatory
10 detention regimes do not involve post-release custody decisions, discretionary arrest warrants
11 issued years after release, or enforcement actions taken against individuals who have been living
12 in the community while their removal proceedings remain pending.

13 The Government's own evidence confirms that Petitioner's detention was the result of
14 discretionary enforcement rather than mandatory detention. The Form I-213 submitted by
15 Respondents states that "current CBP policy allows for the release of subjects who have a pending
16 IJ hearing if there is a future court date shown in CBP systems." Ex. 4. Petitioner had a pending
17 immigration case and an upcoming court date. If detention were truly mandatory under §1225(b),
18 CBP officers would have had no authority to release him at all. The Government cannot
19 simultaneously argue that detention was legally mandatory while its own documentation
20 acknowledges that release of similarly situated individuals is ordinarily permitted under CBP
21 policy. That admission confirms that ICE exercised enforcement discretion when it arrested and
22 detained Petitioner, which independently triggers the procedural due process protections
23 recognized in this Court's prior re-detention decisions.

24 Courts in this District have repeatedly rejected the Government's attempt to retroactively
25 label such discretionary re-detention as "mandatory" by invoking § 1225(b). See E.A.T.-B. v.
26 Wamsley; Ramirez Tesara v. Wamsley; Kumar v. Wamsley; Ledesma Gonzalez v. Bostock.

27
**PETITIONER'S TRAVERSE
IN RESPONSE TO FEDERAL
RESPONDENTS' RETURN**

PAGE 4 OF 10

MULTANI LAW GROUP
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B. Buenrostro-Mendez Does Not Authorize Revocation of Liberty Without Due Process

Respondents rely heavily on the Fifth Circuit’s recent decision in *Buenrostro-Mendez v. Bondi* to argue that Petitioner remains subject to mandatory detention under § 1225(b) despite his prior release. That reliance is misplaced.

First, Fifth Circuit authority is not binding on this Court. This case arises in the Ninth Circuit, where district courts, including this one, have repeatedly applied the *Mathews v. Eldridge* framework to re-detention of previously released noncitizens.

Respondents’ reliance on the “entry fiction” doctrine is also misplaced. That doctrine applies to individuals stopped at the threshold of initial entry, not to individuals who have lived inside the United States for years while pursuing immigration proceedings. Mr. Singh has resided in the United States since at least 2017 and has been actively litigating his asylum case since 2018. Courts have repeatedly held that once a noncitizen has developed substantial ties inside the country, the legal fiction that they remain “at the border” cannot be used to eliminate constitutional protections. Applying the entry fiction doctrine to someone who has lived freely in the community for nearly a decade would expand that doctrine far beyond its historical limits.

Second, *Buenrostro-Mendez* addressed a question of statutory interpretation, whether § 1225(b) applied to certain noncitizens as a categorical matter. It did not address procedural due process. The decision did not hold that the Fifth Amendment permits revocation of an established liberty interest without notice and a hearing. Nor did it analyze the *Mathews v. Eldridge* balancing framework governing procedural due process.

Third, *Buenrostro-Mendez* did not consider whether a noncitizen who has been expressly released under § 236 on an Order of Release on Recognizance acquires a protected liberty interest in continued freedom from detention absent constitutionally adequate procedures.

Finally, the Fifth Circuit did not address, and therefore did not disturb, this District’s line of decisions in *E.A.T.-B.*, *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez*, which hold that even

1 where DHS asserts mandatory detention, due process requires advance notice and a hearing before
2 revoking a previously granted liberty interest. Accordingly, *Buenrostro-Mendez* does not resolve
3 the constitutional question presented here.

4
5 ***C. Even Assuming § 1225(b) Applied, Due Process Still Required a Pre-Deprivation***
6 ***Hearing***

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

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

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

17
18 **III. RESPONDENTS MISAPPLY THE MATHEWS v. ELDRIDGE FRAMEWORK**
19 **TO MR. SINGH**

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

23 The factual posture of this case closely mirrors the circumstances addressed in several
24 recent decisions within this District involving re-detention of noncitizens who had been living in
25 the community while removal proceedings were pending. In those cases, courts applying the
26 *Mathews* framework consistently held that the Government may not revoke a previously granted

1 liberty interest without providing notice and a hearing before a neutral decisionmaker. The same
2 constitutional principle governs here.

3 ***A. Mr. Singh's Liberty Interest Is Exceptionally Strong***

4 Mr. Singh was **not** apprehended at the border or newly arrived. He had been issued an NTA
5 and was in removal proceedings, living in the community, and complying with ICE supervision
6 for nearly two years. His liberty interest in not being detained “is the most elemental of liberty
7 interests[.]” *Hamdi v. Rumsfeld* 542 U.S. 507, 529 (2004).

8 Since his initial entry in 2017, Petitioner has established himself in Washington state,
9 connected with family and friends. Even if the Government had initial discretion to detain or
10 release Petitioner, its decision to release him on conditional parole triggers “a protected liberty
11 interest in remaining out of custody.” *Pinchi v. Noem*, 793 F. Supp. 3d 1025, 1032 (N. D. Cal.
12 2025).

13 Respondents’ attempt to diminish this interest because Mr. Singh is a noncitizen is contrary
14 to Supreme Court and Ninth Circuit precedent recognizing that freedom from physical detention
15 lies at the core of the Due Process Clause, regardless of immigration status.

16 ***B. The Risk of Erroneous Deprivation Was Especially High in Mr. Singh's Case***

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

- 18 • internal CBP review
19 • no neutral adjudication
20 • no opportunity for Mr. Singh to be heard
21 • no assessment of alternatives

22 Mr. Singh has no criminal convictions in the United States or any other country. Even
23 accepting the pending criminal charge and no final disposition or finding of guilt entered as a valid
24 reason, due process does not permit unilateral executive determination of whether those alleged
25 violations justify incarceration. The issue is not whether CBP believes violations occurred, but
26 whether Petitioner was afforded a constitutionally adequate process before liberty was revoked.

1 Without a hearing, CBP made a unilateral determination that Mr. Singh should be deprived
2 of liberty based on untested allegations, exactly the type of erroneous deprivation due process is
3 designed to prevent.

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

7 ***C. The Government's Interest Does Not Outweigh the Required Safeguards***

8 Providing Mr. Singh with written notice and a prompt pre-deprivation hearing would have
9 imposed minimal administrative burden. CBP already conducted a custody review, issued
10 paperwork, and executed an arrest. Requiring basic constitutional process before revoking liberty
11 does not meaningfully impair the Government's interests.

12 Respondents rely on 8 C.F.R. § 1236.1(c)(9), which states that release "may be revoked at
13 any time." But regulatory language permitting revocation "at any time" does not override
14 constitutional due process requirements. Administrative discretion cannot eliminate Fifth
15 Amendment protections.

16 Even if revocation authority exists under the regulation, the Constitution governs how that
17 authority may be exercised. See *Mathews v. Eldridge*, 424 U.S. 319 (1976).

18 The question is not whether DHS may revoke release, but whether it may do so without
19 notice and a neutral hearing prior to seizure. The Due Process Clause requires the latter.

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

23 **IV. POST-DEPRIVATION PROCESS CANNOT CURE THE VIOLATION**
24 **SUFFERED BY MR. SINGH**

25 Respondents argue that Mr. Singh may be entitled to a bond hearing after re-detention.
26 That concession underscores the constitutional violation. Respondents argue Petitioner could

1 request a bond hearing. But Respondents simultaneously assert he is detained under § 1225(b),
2 which does not provide bond jurisdiction. The availability of a theoretical post-deprivation hearing
3 cannot cure the unconstitutional manner in which liberty was revoked. Thus, any purported post-
4 deprivation bond process is illusory and futile under Respondents' own legal theory.

5 Mr. Singh's claim is not merely about entitlement to a bond hearing; it is about the unlawful
6 manner in which his liberty was revoked. As this Court has held, post-deprivation hearings cannot
7 remedy the constitutional injury caused by a seizure of liberty that occurred without due process.

8 Due process requires safeguards before liberty is taken, not after.

9 Respondents repeatedly emphasize that Petitioner's detention has lasted only a short period
10 of time. That argument misunderstands the constitutional violation presented here. Petitioner does
11 not challenge the length of detention; he challenges the manner in which his liberty was revoked.
12 The Due Process Clause protects against arbitrary seizure of liberty regardless of duration. Even a
13 brief detention imposed without constitutionally required procedures violates the Fifth
14 Amendment. The question before this Court is therefore not how long Petitioner has been detained,
15 but whether the Government was permitted to revoke his liberty without notice or a hearing. It was
16 not.

17 18 VI. RELIEF

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

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

26
27 **PETITIONER'S TRAVERSE
IN RESPONSE TO FEDERAL
RESPONDENTS' RETURN**

PAGE 9 OF 10

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DATED this 9th day of March, 2026.

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