

DETAINED

Magistrate Judge Michelle L. Peterson

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

CRISTIAN ALEXIS MORAN CORADO,

Petitioner,

v.

TODD BLANCHE, *et al.*;

Respondents.

CASE NO.: 2:26-cv-01081-MLP

PETITIONER'S RESPONSE TO RETURN
(TRAVERSE)

NOTED FOR CONSIDERATION:
April 20, 2026

PETITIONER'S RESPONSE TO RETURN

I. Introduction

Respondents' Return confirms the constitutional defect in this case. ICE released Petitioner from physical custody on an Order of Release on Recognizance ("OREC") in 2019, permitted him to live in the community for years, even dismissing removal proceedings, and

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1 then abruptly took that liberty away in 2026 without written notice, without a pre-deprivation
 2 hearing, and without any determination by a neutral decisionmaker that he posed a danger to the
 3 community or a flight risk. Dkt. 6 ¶ 5; Dkt. 7-3; Dkt. 6 ¶¶ 9-11. This court has been clear that
 4 this type of treatment is a clear due process violation.

5 Respondents attempt to avoid that straightforward conclusion by reframing Petitioner's
 6 re-detention as though it were merely an initial detention in new proceedings under 8 U.S.C.
 7 § 1225(b). But that argument mistakes the source of the liberty interest at issue in an obvious
 8 form over substance framing. Petitioner's liberty interest did not arise from the continued
 9 existence of a particular charging document or from the pendency of a particular removal case.
 10 It arose when the government released him from physical custody and allowed him to develop
 11 life outside detention. Once that liberty was conferred, the Fifth Amendment required the
 12 government to provide constitutionally adequate procedures before taking it away.

13 Respondents' contrary theory - that Petitioner's liberty interest was extinguished when
 14 DHS moved to dismissal without prejudice his removal proceedings in 2022 - is both legally
 15 wrong and illogical. Dismissal of proceedings may explain why ICE later deactivated
 16 supervision, but it does not erase the constitutional protection attached to Petitioner's continued
 17 freedom. Dkt. 6 ¶¶ 7-8. If anything, the termination of proceedings strengthened Petitioner's
 18 liberty interest by allowing him to remain free without any active removal case pending against
 19 him and without any reporting requirements. Under Respondents' rule, DHS could evade due
 20 process simply by dismissing proceedings on paper and then, months or years later, seizing the

1 same person without notice or an opportunity to respond and pretending they are in the same
2 legal position as they were when they were encountered at the border. That is not the law.

3 This Court's recent cases reject precisely that kind of no-process re-detention. Even
4 where the government believes it has a lawful basis to re-detain a noncitizen, it must still
5 "effectuate the detention in a manner that comports with due process." *E.A. T.-B. v. Wamsley*,
6 No. 2:25-cv-1192, 2025 WL 2402130, at *4 (W.D. Wash. Aug. 19, 2025). Because
7 Respondents provided no pre-deprivation process here, the Court should grant the petition and
8 order Petitioner's immediate release.

9 **II. Respondents Do Not Dispute That No Pre-Deprivation Process Was Provided**

10 Respondents do not contend that Petitioner received written notice before his re-
11 detention. They do not contend that he was given an opportunity to contest the basis for re-
12 detention before ICE seized him. They do not contend that any neutral decisionmaker evaluated
13 whether he posed a danger to the community or a flight risk before he was taken back into
14 custody. Instead, Respondents say only that ICE arrested Petitioner on an administrative warrant
15 and then served him with a new Notice to Appear initiating new proceedings. Dkt. 5 at 1, 7-8;
16 Dkt. 6 ¶¶ 9-10; Dkt. 7-7.

17 That is not pre-deprivation process. Due process requires "the opportunity to be heard at
18 a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333
19 (1976) (citation omitted). Moreover, a procedure is not meaningful when the deprivation has
20 already occurred. Being told, after ICE has already decided to arrest and detain a person, that

1 the government has taken away his liberty is not the notice and hearing that our Constitutional
2 due process contemplates or requires.

3 The petition alleges that, prior to re-detention, Petitioner received no written notice, no
4 assessment of danger or flight risk, and no hearing before a neutral decisionmaker. Dkt. 1 ¶¶ 31-
5 33. Respondents do not actually dispute those allegations. Their silence on those basic
6 procedural facts is telling. The absence of any pre-deprivation process is therefore undisputed.

7
8 **III. The 2022 Dismissal of Removal Proceedings Did Not Extinguish Petitioner's**
9 **Liberty Interest, it Made his Liberty Interest Stronger.**

10 **A. Petitioner's liberty interest arose from release from physical custody, not from the**
11 **pendency of a charging document.**

12 The primary issue raised by Respondents is that dismissal of removal proceedings
13 extinguished Petitioner's liberty interest, but that misapplies this Court's jurisprudence
14 regarding when a liberty interest is created. "Freedom from imprisonment - from government
15 custody, detention, or other forms of physical restraint - lies at the heart of the liberty protected
16 by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). An individual's
17 interest in not being detained is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*,
18 542 U.S. 507, 529 (2004). That principle applies with full force here and is not extinguished by
19 the procedural machinations of DHS.

20 Respondents' own evidence establishes that ICE released Petitioner on an OREC in
21 2019. Dkt. 6 ¶ 5; Dkt. 7-3. The OREC itself confirms that Petitioner was released from custody

1 subject to conditions and that any later arrest and detention would occur through revocation of
2 that release. Dkt. 7-3 at 2. That release created a concrete liberty interest in Petitioner's
3 continued freedom from physical restraint. Respondents then took further steps to increase
4 Petitioner's liberty interest by terminating removal proceedings and terminating his reporting
5 requirements along with the OREC.

6 Courts in this District and elsewhere have repeatedly recognized that noncitizens
7 released from immigration detention possess a protected liberty interest in remaining out of
8 custody. *See, e.g., E.A. T.-B.*, 2025 WL 2402130, at *3-*5; *Ramirez Tesara v. Wamsley*, No.
9 2:25-cv-01723, 2025 WL 2637663, at *2-*4 (W.D. Wash. Sept. 12, 2025); *Petrov v.*
10 *Hermosillo*, No. 2:25-2647-KKE, 2026 U.S. Dist. LEXIS 7557, at *5-*9 (W.D. Wash. Jan. 14,
11 2026); *Gonzalez v. Bostock*, 808 F.Supp 3d 1189, 1202 (W.D. Wash. 2025) . That interest is
12 grounded in the reality of the person's freedom, not in the bureaucratic label attached to the
13 release or the continued pendency of a particular proceeding.

14
15 **B. Administrative dismissal of proceedings did not eliminate the constitutional**
16 **protection attached to Petitioner's freedom.**

17 Respondents rely on the fact that, in 2022, an immigration judge granted DHS's
18 unopposed motion to dismiss proceedings without prejudice, and ICE thereafter deactivated
19 Petitioner from supervision and closed his case. Dkt. 6 ¶¶ 7-8; Dkt. 7-4. But those facts do not
20 do the work Respondents assign to them.

1 At most, they show administrative termination of supervision following dismissal of
2 proceedings initiated by Respondents. They do not show that Petitioner was returned to custody
3 in 2022. They do not show that the government gave him notice that it considered his liberty
4 interest extinguished. They do not show that he was afforded any hearing at which the
5 government proved that future detention would be warranted. To the contrary, they provided
6 him with more liberty than before. That freedom is the protected interest at stake here, not the
7 underlying proceedings.

8 Respondents' argument also conflates two distinct questions: first, the source of the
9 agency's statutory authority to release someone; and second, whether the Constitution protects
10 the liberty interest that exists once release has been granted. Even if Respondents were correct
11 that DHS can detain someone pursuant to § 1225(b) years after their entry into the country and
12 release pursuant to § 1225(b) is only statutorily authorized pending a decision on whether the
13 alien is to be removed; that does not address whether Petitioner, independent from the statute
14 has obtained a liberty interest. The issue is also not whether DHS could continue calling
15 Petitioner's status conditional release after dismissal. The issue is whether the government could
16 later seize Petitioner and deprive him of his actual, lived freedom without notice and an
17 opportunity to be heard. The Constitution answers that question no.

18 **C. Respondents' theory is illogical and would permit easy evasion of due process.**

19 Respondents say Petitioner's liberty interest vanished when his proceedings were
20 dismissed in 2022, so his 2026 arrest should be treated as though no protected liberty had ever

1 existed. That is illogical. The termination of proceedings did not diminish Petitioner's freedom.
2 It left him living at liberty in the community, and indeed without even active removal
3 proceedings pending against him. That circumstance would tend to increase, not reduce, the
4 significance of the liberty interest the government had already conferred.

5 Respondents' theory would also create an obvious due process loophole that the
6 constitution would not permit. Under their rule, DHS could release a person from detention,
7 allow years of life in the community, dismiss proceedings, and then immediately re-arrest the
8 person without any pre-deprivation process simply by characterizing the seizure as an initial
9 detention in new proceedings. Constitutional protection cannot turn on such meaningless
10 procedural maneuvers. Courts examining re-detention after release focus on the deprivation of
11 actual liberty, not on whether agency paperwork has been reset. Factual disputes over alleged
12 release violations “must be adjudicated at a pre-deprivation hearing and they do not extinguish
13 the liberty interest that grew when Respondents” permitted an individual to develop life outside
14 of custody. *Rodriguez Diaz v. Kaiser*, No. 25-cv-05071-TLT, 2025 WL 3011852, at *10 (N.D.
15 Cal. Sept. 16, 2025).

16
17 **IV. Even If Respondents May Now Characterize Detention Under § 1225(b), Due**
18 **Process Still Applies to the Revocation of Liberty**

19 Respondents devote much of their Return to arguing that Petitioner is now detained
20 under 8 U.S.C. § 1225(b). Their own documentation belies this contention because the
21 purported warrant for arrest of alien indicates that Petitioner was detained pursuant to § 1226(a).

1 But assuming *arguendo* they are correct about the statutory basis for detention, it does not
2 follow that Respondents were free to dispense with due process when they took back liberty
3 already conferred.

4 As noted *supra*, this Court has repeatedly rejected the contention that the government's
5 view of detention authority under § 1225 eliminates due process protections in the re-detention
6 context.

7 **V. The Mathews Factors Confirm That Pre-Deprivation Notice and a Hearing**
8 **Were Required**

9 Under Mathews, courts weigh three factors: the private interest affected; the risk of
10 erroneous deprivation under the procedures used and the value of additional safeguards; and the
11 government's interest. 424 U.S. at 335. Each factor favors Petitioner.

12 **A. Petitioner's private interest is exceptionally strong.**

13 Petitioner's private interest is freedom from physical confinement. That is among the
14 strongest liberty interests recognized by the Constitution. *Zadvydas*, 533 U.S. at 690; *Hamdi*,
15 542 U.S. at 529. This Court and others have recognized that when the government has already
16 released a person from immigration detention, the interest in continued liberty is substantial. *See*
17 *E.A. T.-B.*, 2025 WL 2402130, at *3; *Ramirez Tesara*, 2025 WL 2637663, at *3; *Petrov*, 2026
18 U.S. Dist. LEXIS 7557, at *8-*9.

19 That interest was especially weighty here because Petitioner had been living in the
20 community for years before ICE suddenly re-detained him. The liberty interest created by

1 release does not remain static; it deepens as a person builds a life outside detention. *Rodriguez*
2 *Diaz*, 2025 WL 3011852, at *10. The first Mathews factor therefore strongly favors Petitioner.

3 **B. The procedures used created an intolerably high risk of erroneous deprivation, and**
4 **additional safeguards would have substantial value.**

5 The risk of error here was enormous because the procedures used were essentially
6 nonexistent. ICE made the detention decision on its own, without advance written notice,
7 without any opportunity for Petitioner to respond, without any neutral decisionmaker assessing
8 whether detention was actually warranted, and without any real justification.

9 That lack of process mattered. Respondents say they decided to arrest Petitioner based
10 on their own bizarre interpretation of a years-old Office of Child Services report that never
11 resulted in criminal charges. Dkt. 6 ¶ 9. Courts have repeatedly recognized that where the
12 government seeks to re-detain a previously released noncitizen based on unadjudicated
13 allegations, the risk of error is high and a pre-deprivation hearing has substantial value. See
14 *Singh v. Noem*, No. 2:26-cv-00079-DGE, 2026 WL 265670, at *5-*6 (W.D. Wash. Feb. 2,
15 2026).

16 A neutral hearing before re-detention would have allowed Petitioner to contest the
17 factual allegations, explain the age and disposition of that report, and require ICE to show that
18 detention was justified based on actual flight-risk or dangerousness concerns rather than mere
19 suspicion. That is precisely the kind of safeguard due process exists to provide. The second
20 Mathews factor therefore weighs heavily in Petitioner's favor.

1 **C. The government's interest in dispensing with pre-deprivation process is minimal.**

2 Respondents identify no meaningful governmental burden that would justify eliminating
3 pre-deprivation process altogether. Immigration custody hearings are routine, and the cost of
4 providing them is modest compared with the gravity of an erroneous deprivation of liberty. See
5 Doe v. Becerra, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, at *2 (E.D. Cal. Mar. 3,
6 2025).

7 Nor do Respondents identify exigent circumstances that made any pre-deprivation
8 process impossible. By their own account, the report that triggered arrest was discovered in
9 December 2025 and referred to events from years earlier. Dkt. 6 ¶ 9. That timeline undercuts
10 any claim of urgent necessity. When the government has time to investigate, deliberate, and
11 plan an arrest, it has time to provide notice and a hearing before revoking liberty.

12 Society's interest also lies in fair procedures before the government physically restrains a
13 person who has been living at liberty in the community. The third Mathews factor therefore
14 favors Petitioner as well.

15
16 **VI. Immediate Release Is the Appropriate Remedy**

17 Because Respondents deprived Petitioner of liberty without constitutionally required
18 pre-deprivation procedures, habeas relief is warranted. Courts confronting materially similar re-
19 detention without process have ordered immediate release, recognizing that a post-deprivation

1 hearing cannot cure the constitutional violation that has already occurred. *See E.A. T.-B.*, 2025
2 WL 2402130, at *5.

3 Respondents argue that prospective relief would be speculative because re-detention
4 may never recur. But Petitioner does not ask the Court to prohibit all future detention under
5 every conceivable circumstance. He asks only that Respondents be required to comply with the
6 Constitution before again depriving him of liberty. That request is not speculative. It is directly
7 responsive to Respondents' litigating position in this case - that no notice or pre-deprivation
8 hearing was required at all because Petitioner's liberty interest disappeared when proceedings
9 were dismissed. The Court need look no further than its swelling habeas docket for evidence
10 that the likelihood of future government abuses is not speculative. If the Court rejects that
11 theory, it may and should order relief that prevents the same constitutional violation from
12 recurring.

13 Accordingly, the Court should grant the petition, order Petitioner's immediate release,
14 and direct that Respondents may not re-detain Petitioner absent constitutionally adequate
15 process, including written notice and a hearing before a neutral decisionmaker at which the
16 government bears the burden of justifying detention. It should also direct that Respondents
17 return all personal belongings to petitioner that were in his possession when he was detained. In
18 too many cases this Court has ordered release and Respondents fail to return necessary work
19 authorization documents, identity documents and other personal effects – claiming them to be
20 lost.

VII. Conclusion

Respondents released Petitioner from immigration detention, allowed him to remain at liberty for years, and then took that liberty away without any meaningful process. Their effort to erase the liberty interest by pointing to the 2022 dismissal of proceedings confuses administrative case status with the constitutional reality that Petitioner was free from physical restraint. The Fifth Amendment protects that freedom. Because Respondents revoked it without notice and without a pre-deprivation hearing, the petition should be granted and Petitioner should be immediately released.

I certify that this memorandum contains 2,661 words, in compliance with the Local Civil Rules.

Dated this 19th day of April, 2026.

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