

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Martha Lidia Cotoc Yac de Yac,

Petitioner,

v.

Laura HERMOSILLO, *et all.*,

Respondents.

Case No. 2:25-cv-02593-DGE

**TRAVERSE AND RESPONSE
TO RESPONDENTS' RETURN
TO PETITION FOR WRIT OF
HABEAS CORPUS**

The central claim in this case is that Petitioner, Martha Lidia Cotoc Yac de Yac (Ms. Cotoc Yac de Yac), is unlawfully detained. Ms. Cotoc Yac de Yac's detention violates due process because (1) the mandatory detention scheme does not apply to her; (2) she should have been provided a hearing prior to her re-detention; and (3) her detention fails the *Mathews* Test.

Mandatory Detention

Respondents rely on § 1225(b)(2) to justify detaining Ms. Cotoc Yac de Yac. Dkt. 20, 1-2. Because Ms. Cotoc Yac de Yac is not subject to mandatory detention, her custody is unlawful. Congress required that a noncitizen both be an "applicant for admission" *and* "seeking admission" for § 1225(b)(2) to apply. *See Rodriguez Vasquez v. Bostock, et al.*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *16–26 (W.D. Wash. Sept. 30, 2025) (detailing how Respondents' interpretation of § 1225 "belies the statutory text of the [Immigration and Nationality Act], canons of statutory interpretation, legislative history, and longstanding agency practice").

Ms. Cotoc Yac de Yac was not "seeking admission" within the meaning of §1225(b)(2) when she was detained. Ms. Cotoc Yac de Yac was driving her car to work, which she is legally allowed to do, in Vancouver, Washington (nowhere near the U.S. border) when she was detained. Dkt. 1-1, ¶ 9. Thus, she was not seeking admission into the U.S. as is required by the text of § 1225(b)(2). Moreover, Ms. Cotoc Yac de Yac has lived in the United States since 2021. Removal proceedings were dismissed in March of 2023 as were her reporting requirements with ICE. Ms. Cotoc Yac de Yac has an affirmative application for asylum and a U visa application pending with the U.S. Citizenship and Immigration Services. Dkt 1-1 ¶ 2, 21 ¶ 6. Ms. Cotoc Yac de Yac is not subject to mandatory detention under § 1225(b)(2) and because that is the sole authority¹ in which Respondents state they are detaining her, she should be released immediately.

¹ Respondents waive the argument that Ms. Cotoc Yac de Yac is detained under § 1226 by failing to cite it as a justification for detention.

Hearing Prior To Re-Detention

Regardless of whether Ms. Cotoc Yac de Yac is detained under § 1225 or § 1226 if her due process rights have been violated, then detention is improper. *Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385 (S.D. Cal. Nov. 25, 2025) (When a noncitizen is redetained in violation of due process, the applicability of § 1225 or § 1226 is not before the court because detention is improper regardless of which statute applies). Her due process rights were violated because she was not afforded a hearing prior to her re-detention.

Immigration law, regulations, and the Due Process Clause require a hearing *prior to* re-detention, before a neutral decisionmaker, where Immigration and Customs Enforcement (ICE) must justify the re-detention of Ms. Cotoc Yac de Yac. Respondents did not provide these required procedures upon re-detaining Ms. Cotoc Yac de Yac in December 2025, thus violating her due process rights, as several judges in this district have recognized, and as courts around the country have held. *See, e.g., E.A. T.-B v. Wamsley*, --- F. Supp. 3d ---, No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025); *Francois v. Wamsley*, No. C1:25-cv-02122-RSM-GJL, 2025 WL 3063251 (W.D. Wash. Nov. 3, 2025); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025). Accordingly, and consistent with these decisions, Ms. Cotoc Yac de Yac's immediate release is warranted.

ICE was required to provide Ms. Cotoc Yac de Yac's a hearing *prior* to her re-detention, during which ICE needed to have proven by clear and convincing evidence that Ms. Cotoc Yac de Yac violated her conditions of release and was now a flight risk or danger to the community. Respondents do not contest that no hearing was provided and that no determination as to her flight

1 risk or danger was made. To the contrary, Respondents submitted evidence that demonstrates that
2 they do not consider her a flight risk or a danger. Respondents contend only that ICE re-detained
3 Ms. Cotoc Yac de Yac “due to still being unlawfully present despite the prior NTA being
4 dismissed.” Dkt. 21, p. 2 ¶ 9. Respondents do not claim that Ms. Cotoc Yac de Yac was a flight
5 risk or danger to the community. The ICE officer noted that Ms. Cotoc Yac de Yac had no criminal
6 record and no gang associations. Dkt. 22-4, Exh. D, 2. Ms. Cotoc Yac de Yac is not a flight risk.
7 She has lived in the United States for four years, has pending applications for asylum and a U visa
8 and two children, one of whom is a U.S. citizen.

9 Respondents do not contest that Ms. Cotoc Yac de Yac was arbitrarily arrested and re-
10 detained on December 12, 2025, without pre-deprivation notice and hearing. Dkt. 20-22. Because
11 Respondents’ return supplies no legal argument against Ms. Cotoc Yac de Yac’s claim that she is
12 being held in violation of the Fifth Amendment’s Due Process Clause, the Court should grant the
13 petition for a writ of habeas corpus and order Ms. Cotoc Yac de Yac’s immediate release from
14 detention.

15 ***Mathews Test***

16 To determine what procedures are constitutionally necessary to protect a liberty interest,
17 courts generally apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).
18 See *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130, at *3 n.1 (W.D. Wash. Aug.
19 19, 2025) (collecting cases). The *Mathews* test requires balancing the private interest affected by
20 government action; the risk of an erroneous deprivation through the procedures used and the
21 probable value of additional safeguards; and finally, the government interest, including the
22 function and the burden of additional measures. *Mathews*, 424 U.S. at 335.

23 Under *Mathews*, the private interest at stake is personal liberty – the most elemental of

1 liberty interests. “The interest in freedom from physical detention is ‘the most elemental of liberty
2 interests.’” *Perez Camacho v. Hollinshead*, Case No. 1:25-cv-00593-BLW, Dkt. 13 at 20 (D. Idaho
3 Nov. 19, 2025), quoting, *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Immigration detention is
4 a form of civil confinement that “constitutes a significant deprivation of liberty that requires due
5 process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

6 Second, the risk of an erroneous deprivation through the procedures used is high – frontline
7 ICE officers are under enormous pressure to detain as many noncitizens as possible; they are not
8 neutral arbiters. Fulfilling a daily arrest quota is not a valid purpose for detaining a noncitizen.
9 See *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1035 (N.D. Cal. 2025). The tactics ICE used stop Ms.
10 Cotoc Yac de Yac were a violation of her due process rights and thus are further evidence of the
11 high risk of erroneous deprivation. As stated in the I-213 filed by Respondents, ICE officers based
12 their probable cause on the fact that they ran the license plate of the vehicle Ms. Cotoc Yac de Yac
13 was driving and it showed that the vehicle belonged to “COTOC Yac, Miguel, an alien present in
14 the United States without permission. Officers had probable cause to believe that the driver of the
15 vehicle was Miguel YAC Cotoc.” Dkt. 22-4, Exh. D, 3. Respondents have provided no evidence
16 that Ms. Cotoc Yac de Yac could ever be mistaken for her husband.

17 Finally, the agency’s interest lies in ascertaining that Petitioner is not a danger to the
18 community and will appear at future immigration proceedings. Nothing more. “[D]ue process
19 requires the government to identify some interest beyond its own administrative practices to justify
20 depriving an individual of her liberty without any pre-deprivation protections. Detention for its
21 own sake, to meet an administrative quota, or because the government has not yet established
22 constitutionally required pre-detention procedures is not a legitimate government interest.” *Pinchi*
23 *v. Noem*, 792 F. Supp. 3d 1025, 1035 (N.D. Cal. Jul 24, 2025). As demonstrated above, Ms. Cotoc

1 Yac de Yac is not a flight risk or a danger to the community. Thus, the detention of Ms. Cotoc Yac
2 de Yac is unlawful and she should be released because the government's interest in detaining her
3 is not legitimate.

4 **CONCLUSION**

5 For the foregoing reasons, Ms. Cotoc Yac de Yac respectfully requests this Court issue a
6 writ of habeas corpus, declaring the detention of Ms. Cotoc Yac de Yac pursuant to § 1225(b)(2)
7 to be unlawful and order that Ms. Cotoc Yac de Yac shall not be re-detained without notice and an
8 opportunity to be heard by a neutral decisionmaker as to whether she is a flight risk or danger to
9 the community.

10 Respectfully submitted this 6th day of January 2026.

11
12 s/ Anna Ciesielski
13 Anna Ciesielski
Email: anna@oregonimmigrationgroup.com

14 Anna Ciesielski
15 PO Box 13764
Portland, OR 97213
16 (503) 548-1575

17 s/ Shara Svendsen
18 Shara Svendsen, WSBA No. 38151
Email: shara@svenlaw.com

19 Law Office of Shara Svendsen PLLC
20 16300 Mill Creek Blvd. STE 206
21 Mill Creek, WA 98012
425-361-1511

22 *Attorneys for Petitioner*

23 I certify that this traverse and response contains 1,454
words, in compliance with the Local Civil Rules.