

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FERNANDO RAMIREZ CASTILLO,

Petitioner,

v.

WARDEN, ADELANTO ICE
PROCESSING CTR, ET AL.,

Respondents.

No. ED CV 25-3476-MWF(E)

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This Report and Recommendation is submitted to the Honorable
Michael W. Fitzgerald, United States District Judge, pursuant to 28 U.S.C. section 636 and
General Order 05-07 of the United States District Court for the Central District of California.

PROCEEDINGS

Petitioner, a detainee of Immigration and Customs Enforcement ("ICE"), filed a "Petition
for Writ of Habeas Corpus" on December 20, 2025. Respondents filed an Answer on
January 14, 2026. Petitioner filed a Traverse on January 21, 2026.

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FACTUAL BACKGROUND

Petitioner is a citizen of Mexico who entered the United States without inspection in January of 2001. Petitioner reportedly is illiterate in the English language. During 2003-2009, Petitioner suffered three convictions, serving a total 33 days in county jail.

Petitioner was first detained by immigration authorities in February of 2010, but was released on supervision the same month. Petitioner was re-detained in September of 2012, after Petitioner admitted his entry into the United States from a decade earlier. In October of 2012, Petitioner was re-released on supervision.

In June of 2016, an Immigration Judge ordered Petitioner removed to Mexico (a removal order which has become final). At the same time, however, the judge granted Petitioner Deferral of Removal under the Convention Against Torture, and Petitioner remained released on supervision.

More than nine years passed, during which Petitioner complied with all of the terms of his supervision. Yet, on December 17, 2025, without prior notice, ICE detained Petitioner, and Petitioner has remained detained ever since.

The only explanation given to Petitioner for his re-detention was a "Notice of Revocation of Release," dated December 17, 2025. This notice, which is printed only in the English language, reads in pertinent part:

This letter is to inform you that your order of supervision has been revoked and you will be detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your official alien file and a determination that there are changed

1 circumstances in your case.

2
3 ICE has determined that you can be expeditiously removed from the
4 United States pursuant to the outstanding order of removal of against you. On
5 June 27, 2016, you were ordered removed to Mexico by an authorized U.S.
6 DHS/DOJ official and you are subject to an administratively final order of
7 removal. Your case is currently under review by Third Country (other than
8 Mexico) for the issuance of a travel document.

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10 **SUMMARY OF PARTIES' CONTENTIONS**

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12 Petitioner contends that his recent re-detention violated his rights under federal law,
13 including his right to due process. Respondents contend that Petitioner's re-detention is lawful
14 and that Petitioner has failed to state a sufficiently definite claim. The parties also dispute
15 whether a challenge to the possible removal of Petitioner to a third country (not Mexico) is ripe
16 at this time.

17
18 **DISCUSSION**

19
20 **I. Petitioner's Re-Detention was Unlawful. Habeas Relief Should Issue.**

21
22 The federal Constitution guarantees the availability of the writ of habeas corpus "to
23 every individual detained within the United States." Hamdi v. Rumsfeld, 542 U.S. 507, 525
24 (2004). "The essence of habeas corpus is an attack by a person in custody upon the
25 legality of that custody, and . . . the traditional function of the writ is to secure release from
26 illegal custody." Preiser v. Rodriguez, 411 U.S. 475, 484 (1973). A petitioner held in
27 custody in violation of the Constitution or federal law is entitled to habeas relief. See 28
28 U.S.C. § 2241(c)(3).

1 Although this Court would have no jurisdiction to review a challenge to Petitioner's
2 final order of removal (8 U.S.C. § 1252(g)), the Court does have jurisdiction to adjudicate
3 Petitioner's challenge to his re-detention. See Jennings v. Rodriguez, 583 U.S. 281, 138 S.
4 Ct. 830, 841 n.3 (2018); Zadvydas v. Davis, 533 U.S. 678, 687 (2001); Reno v. American-
5 Arab Anti-Discrimination Comm., 525 U.S. 471, 482 (1999); Pinchi v. Noem, 2025 WL
6 3691938, at *9-12 (N.D. Cal. Dec. 19, 2025). Numerous District Courts correctly have found
7 that jurisdiction exists to adjudicate aliens' challenges to ICE re-detentions. See, e.g.,
8 Pinchi v. Noem, 2025 WL 3691938, at *9-12; Xayakesone v. Noem, 2025 WL 3229102 (S.D.
9 Cal. Nov. 19, 2025); J.L.R.P. v. Wofford, 2025 WL 3190589 (E.D. Cal. Nov. 14, 2025);
10 Rodriguez Cabrera v. Mattos, 2025 WL 3072687, at *6-7 (D. Nev. Nov. 3, 2025); Grigorian
11 v. Bondi, 2025 WL 2604573 (S.D. Fla. Sept. 9, 2025); K.E.O. v. Woosley, 2025 WL 2553394
12 (W.D. Ky. Sept. 4, 2025); Zhu v. Genalo, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025);
13 Santamaria Orellana v. Baker, 2025 WL 2444087 (D. Md. Aug. 25, 2025); M.S.L. v. Bostock,
14 2025 WL 2430267 (D. Or. Aug. 21, 2025); Ceesay v. Kurzdorfer, 781 F. Supp. 3d 137, 151-
15 52 (W.D.N.Y. 2025).

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17 Due process, which extends to noncitizens present in the United States, prohibits
18 deprivations of life, liberty and property without due process of law. See U.S. Const.
19 Amend. V; Trump v. J.G.G., 604 U.S. 670, 673 (2025); Zadvydas v. Davis, 533 U.S. at 693-
20 94. Due process requires that a person be afforded notice and an opportunity to be heard
21 "at a meaningful time and in a meaningful manner." Mathews v. Eldridge, 424 U.S. 319, 333
22 (1976) ("Mathews"); Tenemasa-Lema v. Hyde, 2025 WL 3280555, at *8-11 (D. Mass.
23 Nov. 25, 2025) (applying Mathews to find that re-detention of paroled alien without the
24 possibility of re-release violated due process); Minute Order, filed October 30, 2025 in Im v.
25 Semaia, CV 25-2733-JAK(E) (C.D. Cal. 2025) (applying Mathews to find a likelihood of a
26 due process violation where ICE re-detained without a hearing an alien who had been on
27 immigration supervision); accord Pinchi v. Noem, 2025 WL 3691938, at *30-31; cf. Hurd v.
28 District of Columbia, 864 F.3d 671, 683 (D.C. App. 2017) ("the Supreme Court has

1 repeatedly held that in at least some circumstances, a person who is in fact free of physical
2 confinement - even if that freedom is lawfully revocable - has a liberty interest that entitles
3 him to constitutional due process before he is re-incarcerated”).

4
5 Immigration regulations implement and safeguard some of these due process rights.
6 For example, under 8 C.F.R. sections 241.13(i) and 241.4(l), a revocation of supervised
7 release requires that the alien be informed of the basis for revocation and be provided a
8 “prompt” opportunity to present evidence and to explain why revocation is not warranted.

9
10 In the present case, Respondents have violated these regulations and Petitioner’s
11 due process rights. The December 17, 2025 “Notice of Revocation of Release” is not a
12 constitutionally sufficient notice. Apparently boilerplate language states “that there are
13 changed circumstances,” but does not purport to identify a single such circumstance or give
14 any other indication why Petitioner’s uneventful and compliant nine-years long supervision is
15 being revoked. Petitioner’s remote criminal convictions (all of which predated his re-release
16 on supervision) cannot constitute changed circumstances. The Notice fails to allege that
17 Petitioner committed any violation of the conditions of his supervised release. The
18 Government’s reported decision to seek removal to a third country may be new, but the
19 Notice fails even to identify any third country so that Petitioner might receive an opportunity
20 to be heard regarding any such intended removal. And, of course, the Notice is only in
21 English, such that Petitioner would not have understood the reason for revocation of his
22 supervision even if the Notice contained any specific disclosure of the Government’s
23 reasoning. In sum, the Notice was plainly insufficient to put Petitioner on notice of the
24 purported reasons for the revocation of his supervised release. See, e.g., Perez-Escobar v.
25 Monez, 2025 WL 2084102, at *2 (D. Mass. July 24, 2025); see also Delkash v. Noem, CV
26 25-01675-HDV(AGR) (C.D. Cal. Aug. 25, 2025) (Dkt. 18, pp. 7-9).

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1 Respondents invoke 8 U.S.C. section 1231(a)(6) in an attempt to justify Petitioner's
2 re-detention. The invocation is inapt. This section authorizes detention of certain aliens
3 beyond the 90-day removal period following a final order of removal. The statute does not
4 address the re-detention of an alien whose 90-day removal period expired years ago, who
5 was previously released on supervision and who was maintained on supervision for almost
6 a decade. See 8 U.S.C. 1231(a)(3) (indicating that an alien who does not leave and is not
7 removed during the 90-day removal period "shall be subject to supervision"). In any event,
8 Respondent's arguments do not account for Petitioner's due process rights.

9
10 It should go without saying that federal agencies, including ICE, must follow federal
11 law, including federal due process and federal regulations. See United States ex rel.
12 Accardi v. Shaughnessy, 347 U.S. 260 (1954); see also Morton v. Ruiz, 415 U.S. 199, 235
13 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow
14 their own procedures."). Where, as here, fundamental due process rights are implicated, a
15 petitioner need not demonstrate prejudice resulting from the federal agency's violation of
16 law. See, e.g. Martinez v. Noem, 2025 WL 3171738, at *4 (S.D. Cal. Nov. 13, 2025); Phan
17 v. Noem, 2025 WL 2898977 (S.D. Cal. Oct. 10, 2025). As observed in Ghafouri v. Noem,
18 2025 WL 3085726, at *6 (S.D. Cal. Nov. 4, 2025), "[d]istrict courts across the country,
19 including in the Ninth Circuit, have determined that where ICE fails to follow its own
20 regulations in revoking release, the detention is unlawful and the petitioner's release must
21 be ordered." (citations and quotations omitted); accord, Perez-Escobar v. Moniz, 2025 WL
22 2084102, at *3 (D. Mass. July 24, 2025). Further, as aptly stated in Ceesay v. Kurzdorfer,
23 781 F. Supp. 3d at 166, "Everyone - citizen and noncitizen, the innocent and the guilty - is
24 entitled to [the] sacred right [of due process]. . . . [B]ecause ICE did not follow its own
25 regulations in deciding to re-detain [petitioner], his due process rights were violated, and he
26 is entitled to release. And even if that were not so, he still would be released because he
27 was not afforded even the minimal due process that protects everyone - citizens and
28 noncitizens - in the United States."

1 The most appropriate remedy would be “[t]o return to the status quo - the last
2 uncontested status which preceded the pending controversy,” i.e., to order the release of
3 Petitioner on “the same conditions [under which] he was released previously.” Garcia v.
4 Andrews, 2025 WL 1927596, at *6 (E.D. Cal. July 14, 2025); see Rodriguez Cabrera v.
5 Mattos, 2025 WL 3072687, at *15 (ordering re-release of ICE detainee on conditions
6 previously imposed).

7
8 **II. Any Challenge to the Possible Removal of Petitioner to a Third Country is Not**
9 **Ripe.**

10
11 Article III of the Constitution limits district courts to the adjudication of only actual
12 cases or controversies. See U.S. Const. art. III, § 2, cl. 1. “A suit brought by a plaintiff
13 without Article III standing is not a ‘case or controversy,’ and an Article III federal court
14 therefore lacks subject matter jurisdiction over the suit.” Cetacean Cmty. v. Bush, 386 F.3d
15 1169, 1174 (9th Cir. 2004). To establish standing, a plaintiff must show he or she
16 “(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the
17 defendant, and (3) that is likely to be redressed by a favorable judicial decision.” Spokeo,
18 Inc. v. Robins, 578 U.S. 330, 338 (2016). “[A]t an irreducible minimum, Art. III requires the
19 party who invokes the court’s authority to ‘show that he personally has suffered some actual
20 or threatened injury as a result of the putatively illegal conduct of the defendant. . .[.]”
21 Valley Forge Christian College v. Americans United for Separation of Church & State, Inc.,
22 et al., 454 U.S. 464, 472 (1982) (quoting Gladstone, Realtors v. Village of Bellwood, 441
23 U.S. 91, 99 (1979)). To establish injury in fact, a plaintiff must show he suffered “an
24 invasion of a legally protected interest” that is “concrete and particularized” and “actual or
25 imminent, not conjectural or hypothetical.” Lujan v. Defs. of Wildlife, 504 U.S. 555, 560
26 (1992) (internal quotations omitted). A plaintiff is required to show he is “immediately in
27 danger of sustaining some direct injury.” City of Los Angeles v. Lyons, 461 U.S. 95, 102
28 (1983).

1 On the present record, there is no identification of a third country, no proof travel
2 documents for Petitioner have been procured and no other evidence to suggest Petitioner is
3 "immediately in danger of sustaining some direct injury" in regard to removal to a third
4 country. Accordingly, Petitioner presently lacks Article III standing to pursue a challenge to
5 the possible removal of Petitioner to a third country.¹

6
7 **CONCLUSION**

8
9 For all of the foregoing reasons, it is recommended that the Court issue an order:
10 (1) accepting and adopting this Report and Recommendation; and (2) directing that Judgment
11 be entered granting the Petition in part and ordering Respondents to release Petitioner from
12 custody immediately, subject to the conditions of his previous supervision.

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14 DATED: January 29, 2026.

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17 CHARLES F. EICK
18 UNITED STATES MAGISTRATE JUDGE
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27 ¹ To be sure, any removal of Petitioner to a third country must comport with due
28 process. ICE will be required as a matter of law and protocol to afford Petitioner a
meaningful opportunity to contest his removal to a third country on the basis of fear of
persecution or torture. 8 U.S.C. § 1231(b)(3)(A); 28 C.F.R. § 200.1; 8 C.F.R. § 208.16-
18, 1208.16-18.

1 **NOTICE**

2 Reports and Recommendations are not appealable to the Court of Appeals, but
3 may be subject to the right of any party to file objections as provided in the Local Rules
4 Governing the Duties of Magistrate Judges and review by the District Judge whose initials
5 appear in the docket number. No notice of appeal pursuant to the Federal Rules of
6 Appellate Procedure should be filed until entry of the judgment of the District Court.

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CENTRAL DISTRICT OF CALIFORNIA**

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No. ED CV 25-3476-MWF(E)

ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. section 636, the Court has reviewed the Petition, all of the records herein and the attached Report and Recommendation of United States Magistrate Judge. Further, the Court has engaged in a de novo review of those portions of the Report and Recommendation to which any objections have been made. The Court accepts and adopts the Magistrate Judge's Report and Recommendation.

IT IS ORDERED that: (1) the Report and Recommendation of the Magistrate Judge is accepted and adopted; and (2) Judgment shall be entered granting the Petition in part, and ordering Respondents to release Petitioner from custody immediately, subject to the conditions of his previous supervision.

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1 IT IS FURTHER ORDERED that the Clerk serve forthwith a copy of this Order, the
2 Magistrate Judge's Report and Recommendation and the Judgment herein on Petitioner, on
3 counsel for Petitioner and on counsel for Respondents.

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5 LET JUDGMENT BE ENTERED ACCORDINGLY.

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7 DATED: _____
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11 MICHAEL W. FITZGERALD
12 UNITED STATES DISTRICT JUDGE
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

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Petitioner,

v.

**WARDEN, ADELANTO ICE PROCESSING
CTR, ET AL.,**

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No. ED CV 25-3476-MWF(E)

JUDGMENT

IT IS ADJUDGED that the Petition is granted in part and Respondents are ordered to release Petitioner from custody immediately, subject to the conditions of his previous supervision.

DATED: _____.

**MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE**