

Chief District Judge David G. Estudillo

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

JATINDER SINGH,

Petitioner,

v.

KRISTI NOEM, *et al.*,¹

Respondents.

Case No. 2:26-cv-00079-DGE

FEDERAL RESPONDENTS'
RETURN

Noted for Consideration:
January 28, 2026

I. INTRODUCTION

This Court should deny Petitioner Jatinder Singh's Petition for Writ of Habeas Corpus. Dkt. No. 1 ("Pet."). U.S. Immigration and Customs Enforcement ("ICE") mandatorily detained Petitioner pursuant to 8 U.S.C. § 1225(b) after the revocation of his bond previously issued by U.S. Department of Homeland Security ("DHS"). Accordingly, Federal Respondents respectfully request that the Court deny the Petition. This return is supported by the pleadings and documents on file in this case, the Declaration of Deportation Officer Anthony Rosa ("Rosa Decl.") and the

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

1 Declaration of Jennifer Wong (“Wong Decl.”), with accompanying exhibits. Federal Respondents
2 do not believe any hearing is necessary.

3 II. BACKGROUND

4 A. Petitioner Jatinder Singh

5 Petitioner is a native and citizen of India, who entered the United States most recently
6 without inspection on or about May 19, 2022. Rosa Decl. ¶ 3; Wong Decl. at Ex. 1 (Form I-213).
7 On May 22, 2022, U.S. Customs and Border Protection (“CBP”) issued a Notice to Appear for
8 Petitioner and charged him as removable under Immigration and Nationality Act (“INA”) §
9 212(a)(6)(A)(i). Rosa Decl. ¶ 4; Wong Decl. at Ex. 2 (Notice to Appear). On May 26, 2022,
10 Petitioner was released by DHS on a \$3,000 bond and an order of recognizance (“OREC”). Rosa
11 Decl. ¶ 5; Wong Decl. at Ex. 3 (DHS Bond). His immigration proceedings were transferred to the
12 San Francisco Immigration Court based on his reported address at the time on July 13, 2022. Rosa
13 Decl. ¶ 6.

14 On November 15, 2025, Petitioner was arrested for physical control of a vehicle under the
15 influence by the Puyallup Police Department in Puyallup, Washington, and these charges remain
16 pending. *Id.* ¶ 7.

17 On December 10, 2025, CBP encountered Petitioner at the Montana Department of
18 Transportation weigh station on I-90 at mile marker 15 on Interstate 90, an area that is a frequent
19 route for narcotics transportation and human smuggling. *Id.* ¶ 8. Petitioner was interviewed by
20 CBP during this encounter and arrested based on his immigration history and risk of absconding.
21 *Id.* ¶ 9. He was previously released by DHS with the obligation to comply with all conditions,
22 including compliance with all laws on the local, state, and federal levels. *Id.* ¶ 10. Because he
23 failed to comply with these conditions and is considered a flight risk by DHS, Petitioner was
24 advised that his release was being revoked due to noncompliance with release conditions and

1 court requirements, and he was informed that he will be held in DHS custody for further
2 proceedings. Rosa Decl. ¶¶ 10-11; Wong Decl. at Ex. 4 (Notice and Order of Violation); *see also*
3 Wong Decl. at Ex. 2.

4 During an informal interview, Petitioner acknowledged understanding of the revocation
5 but declined to provide a statement. Rosa Decl. ¶ 11. Petitioner was taken into custody and
6 transported to the Mineral County Sheriff's Office Detention Center for further processing and
7 transferred to the Northwest ICE Processing Center ("NWIPC") shortly thereafter. *Id.* Petitioner's
8 immigration proceedings were transferred to the Tacoma Immigration Court on or about
9 December 12, 2025. *Id.* ¶ 12. He is represented by counsel in his immigration proceedings and
10 his next hearing is on February 10, 2026. *Id.* Petitioner is currently detained at the NWIPC. *Id.* ¶
11 13.

12 **B. Legal Background**

13 Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the
14 Executive could "expedite removal of aliens lacking a legal basis to remain in the United States."
15 *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*,
16 591 U.S. 103, 106 (2020). Section 1225 applies to "applicants for admission" to the United States,
17 who are defined as "[a]n alien present in the United States who has not been admitted or who
18 arrives in the United States (whether or not at a designated port of arrival and including an alien
19 who is brought to the United States after having been interdicted in international or United States
20 waters)." 8 U.S.C. § 1225(a)(1). Applicants for admission "fall into one of two categories, those
21 covered by § 1225(b)(1) and those covered by § 1225(b)(2)," both of which are subject to
22 mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of Yajure Hurtado*,
23 29 I&N Dec. 216 (BIA 2025).

1 Relevant here, Section 1225(b)(2) is “broader” and “serves as a catchall provision.”
2 *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).”
3 *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to
4 mandatory detention pending full removal proceedings “if the examining immigration officer
5 determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be
6 admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens “be detained for a
7 proceeding under section 1229a of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025)
8 (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in
9 full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
10 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

11 The sole means of release from detention pursuant to Section 1225(b) is “temporary parole
12 ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583
13 U.S. at 283. This parole terminates automatically at the expiration of the time for which parole
14 was authorized, or upon service of a charging document for either expedited removal proceedings
15 under Section 1225(b) or removal proceedings under Section 1229a. 8 C.F.R. §§ 212.5(e)(1);
16 (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at the time
17 of parole. *See id.*

18 **C. Revocation of Discretionary Release from Detention**

19 “Any officer authorized to issue a warrant of arrest may, in the officer’s discretion, release
20 an alien . . . provided that the alien must demonstrate to the satisfaction of the officer that such
21 release would not pose a danger to property or persons, and that the alien is likely to appear for
22 any future proceeding.” 8 C.F.R. § 1236.1(c)(8). Section 236.1(c)(9) provides for the revocation
23 of such release: “When an alien who, having been arrested and taken into custody, has been
24 released, such release may be revoked at any time in the discretion of the district director, acting

1 district director, deputy district director, assistant district director for investigations, assistant
 2 district director for detention and deportation, or officer in charge (except foreign), in which event
 3 the alien may be taken into physical custody and detained.”

4 III. JURISDICTION AND STANDARD OF REVIEW

5 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
 6 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
 7 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he
 8 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present
 9 day.” *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 125 n. 20 (2020).

10 Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas
 11 petitions. To warrant a grant of writ of habeas corpus, the burden is on the petitioner to prove that
 12 his or her custody is in violation of the Constitution, laws, or treatises of the United States. *See*
 13 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004); *Snook v.*
 14 *Wood*, 89 F.3d 605, 609 (9th Cir. 1996).

15 IV. ARGUMENT

16 A. Petitioner’s re-detention is consistent with statute.

17 The plain language of the statute is clear: Petitioner is subject to mandatory detention
 18 under Section 1225(b) because he is an applicant for admission. *Matter of Yajure-Hurtado*, 29 I.
 19 & N. Dec. 216, 220 (BIA 2025). Section 1225(b)(2)(A) requires mandatory detention of “an alien
 20 who is an applicant for admission, if the examining immigration officer determines that an alien
 21 seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” 8 U.S.C. §
 22 1225(b)(2)(A). The INA specifies that “[a]n alien present in the United States who has not been
 23 admitted . . . shall be deemed for purposes of this Act an applicant for admission.” 8 U.S.C. §
 24 1225(a)(1). Petitioner does not dispute that he is a noncitizen who is present in the United States

1 without having been admitted. Thus, he is an “applicant for admission” and subject to mandatory
2 detention under Section 1225(b).

3 Contrary to Petitioner’s assertion, a pre-deprivation hearing to determine whether
4 Petitioner is a flight risk or dangerous was not required prior to his arrest in December of 2025.
5 There is no statutory or regulatory requirement for a hearing prior to re-detention, and the
6 Supreme Court has warned courts against reading additional procedural requirements into the
7 INA. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific
8 bond hearing requirement into 8 U.S.C. § 1231(a)(6) because “reviewing courts . . . are generally
9 not free to impose [additional procedural rights] if the agencies have not chosen to grant them”)
10 (quoting *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435
11 U.S. 519, 524 (1978) (cleaned up)).

12 **B. Petitioner’s re-detention is consistent with his due process rights.**

13 “Due process is flexible and calls for such procedural protections as the particular situation
14 demands.” *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that
15 Petitioner’s re-detention without a pre-detention hearing is consistent with his due process rights.
16 Under *Mathews*, “[t]he fundamental requirement of due process is the opportunity to be heard at
17 a meaningful time and in a meaningful manner.” *Id.* at 333 (internal quotation marks omitted).
18 This calls for an analysis of (1) “the private interest that will be affected by the official action,”
19 (2) “the risk of an erroneous deprivation of such interest through the procedures used, and
20 probable value, if any, of additional or substitute procedural safeguards,” and (3) the
21 Government’s interest. *Id.* at 334-35.

22 Federal Respondents acknowledge that district courts have recently found that the
23 revocation of an OREC requires a pre-deprivation hearing to determine if that noncitizen is a
24 flight risk or a danger to the community. *See, e.g., E.A.T.-B. v. Wamsley*, No. 2:25-cv-01192,

1 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025). Respectfully, these decisions erroneously
2 conflate 8 C.F.R. § 1236.1(c)(9) and 8 C.F.R. § 1236.1(c)(8). *See id.* (imposing a determination
3 set forth in Section (c)(8) into the discretionary determination of revoking an OSUP in Section
4 (c)(9)). These decisions err by incorporating Section (c)(8)'s requirements into Section (c)(9).
5 Both Sections provide that the decisions to release or revoke are discretionary. But Section
6 1236.1(c)(8) includes language requiring the officer to decide that the alien "would not pose a
7 danger to property or persons, and that the alien is likely to appear for any future proceeding." In
8 contrast, Section 1236.1(c)(9) does not require such a determination and specifically provides that
9 "release may be revoked at any time."

10 This Court should not create a blanket due process requirement for every situation because
11 due process is flexible. Here, Petitioner is subject to mandatory detention. Thus, analysis of his
12 potential flight risk or dangerousness would be immaterial, and a hearing would be futile.

13 Federal Respondents recognize the "weighty liberty interests implicated by the
14 Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-08674, 2021 WL 3727614, at
15 *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released
16 from immigration detention have a protected liberty interest in remaining out of custody, the
17 weight of that liberty must be considered in the broader picture of the immigration system, which
18 has long acknowledged that a noncitizen has a lesser liberty interest than a citizen. After all, "[t]he
19 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has
20 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that
21 would be unacceptable if applied to citizens.'" *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206
22 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has
23 explained, "[i]n the exercise of its broad power over naturalization and immigration, Congress
24 regularly makes rules that would be unacceptable if applied to citizens." *Mathews v. Diaz*, 426

1 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly “recognized detention during
2 deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore*,
3 538 U.S. at 523.

4 Petitioner’s interest in his liberty, however, does not mean that he possesses a separate or
5 heightened liberty interest in the continuation of his release from ICE detention when he is now
6 deemed a flight risk by DHS. *See* Wong Decl. at Ex. 2; Rosa Decl. ¶ 10. While his charges for
7 physical control of a vehicle under the influence remain pending, Petitioner’s DHS bond release
8 was dependent on his obligation to comply with all conditions, including compliance with all
9 laws on the local, state and federal level. *See* Wong Decl. at Ex. 2; Rosa Decl. ¶¶ 7, 10.

10 Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation
11 of Petitioner’s liberty without a pre-detention hearing is minimal when Petitioner knew what
12 conditions he must abide by to continue on OREC and then clearly did not comply. DHS’s
13 regulations provide that even if a noncitizen is initially released because he did not pose a danger
14 or be a flight risk at that time, release may be revoked. 8 C.F.R. § 1236.1(c)(9). In any event,
15 DHS decided to revoke that release because Petitioner did not comply with his conditions for
16 release, with noncompliance based on his pending charges for physical control of a vehicle under
17 the influence and his determination as a flight risk by DHS. Rosa Decl. ¶¶ 10-11.

18 Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews*
19 test “must account for the heightened government interest in the immigration detention context.”
20 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the Ninth
21 Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in
22 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” 53 F.4th at
23 1208 (quoting *Demore*, 538 U.S. at 518). Furthermore, DHS has a significant interest in being
24 able to release a noncitizen on conditions of release and be able to revoke that release when those

1 conditions are violated. Otherwise, the purpose of conditional release is wholly negated.
2 Petitioner does not deny that he violated his conditions of release and has now been deemed a
3 flight risk by DHS. Thus, DHS's initial decision that he was not a flight risk has been reassessed
4 based on recent circumstances and his release revoked. If DHS is required to have a pre-detention
5 hearing when a person violates conditions of release, it would inhibit the Executive's function of
6 immigration enforcement.

7 Accordingly, due process does not require a pre-deprivation hearing in all circumstances
8 where individuals are detained after being released, including for Petitioner here.

9 **V. CONCLUSION**

10 For the foregoing reasons, Federal Respondents respectfully request that this Court deny
11 the Petition.

12 DATED this 23rd day of January, 2026.

13 Respectfully submitted,

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I certify that this memorandum contains 2,503
words, in compliance with the Local Civil Rules.