

Magistrate Judge Grady J. Leupold

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

G.R.R.,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:26-cv-00097-GJL

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
February 2, 2026

INTRODUCTION

Immigration and Customs Enforcement revoked Petitioner's release and bond in accordance with law. He is mandatorily detained pursuant to 8 U.S.C. § 1225(b)(2) and his habeas petition should be denied.

FACTUAL AND LEGAL BACKGROUND

Detention under 8 U.S.C. 1225(b)

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could "expedite removal of aliens lacking a legal basis to remain in the United States." *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep't of Homeland Sec. v. Thuraissigiam*,

1 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims
2 and expeditiously removing the aliens making such claims from the country.”). Section 1225
3 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in
4 the United States who [have] not been admitted” or noncitizens “who arrive[] in the United
5 States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for
6 admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by
7 § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287.

8 Section 1225(b)(1) applies to “arriving aliens” and “certain other” noncitizens “initially
9 determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.”
10 *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(2) is “broader” and “serves as a catchall
11 provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by
12 § 1225(b)(1).” *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is
13 subject to mandatory detention pending full removal proceedings “if the examining immigration
14 officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to
15 be admitted.” 8 U.S.C. § 1225(b)(2)(A). Congress has determined that all noncitizens subject to
16 Section 1225(b) are subject to mandatory detention. Regardless of whether a noncitizen falls
17 under Section 1225(b)(1) or (b)(2), the sole means of release is “temporary parole from § 1225(b)
18 detention ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).”
19 *Jennings*, 583 U.S. at 283.

20 **Detention under 8 U.S.C. 1226**

21 Section 1226 relates to the apprehension and detention aliens “pending a decision on
22 whether the alien is to be removed from the United States.” 8 U.S.C. § 1226. Section 1226
23 “generally governs the process of arresting and detaining” deportable aliens under 8 U.S.C. §
24 1227(a), including “aliens who were inadmissible at the time of entry or who have been convicted

1 of certain criminal offenses since admission.” *Jennings*, 583 U.S. at 288 (citing 8 U.S.C. §
2 1227(a)(1), (2)).

3 The detention provisions of section 1226 distinguish between two groups. The first
4 consists of aliens arrested on a warrant issued by the Department of Homeland Security who,
5 subject to certain restrictions, may be detained or released on bond or conditional parole. 8 U.S.C.
6 § 1226(a). For this group, the Immigration Judge may “exercise the authority . . . to detain the
7 alien in custody, release the alien, and determine the amount of bond, if any, under which the
8 respondent may be released[.]” The second group identified in section 1236 are categories of
9 “criminal aliens” subject to mandatory detention under section 8 U.S.C. § 1226(c); the
10 Immigration Judge is without authority to consider a bond request filed by anyone falling into
11 this category. “Section 236 does not purport to overrule the mandatory detention requirements for
12 arriving aliens and applicants for admission explicitly set forth in . . . [8 U.S.C. § 1225(b)].”
13 *Matter of Yajure Hurtado*, 29 I&N Dec. 219-220 (BIA 2025).

14 **Revocation of bond**

15 “Federal regulations provide that aliens detained under § 1226(a) receive bond hearings
16 at the outset of detention.” *Jennings*, 583 U.S. at 306 (2018) (citing 8 CFR §§ 236.1(d)(1)). If, at
17 this hearing, the detainee demonstrates by the preponderance of the evidence that he or she is not
18 “a threat to national security, a danger to the community at large, likely to abscond, or otherwise
19 a poor bail risk,” the IJ will order his or her release. *Diaz v. Garland*, 53 F.4th 1189, 1197 (9th
20 Cir. 2022) (citing *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006)). Once released, the alien’s
21 release and bond are subject to revocation. Under 8 U.S.C. § 1226(b) and 8 C.F.R. 236.1(c)(9),
22 DHS has authority to discretionarily revoke an alien’s release and bond “at any time[.]”

Petitioner G.R.R.

Petitioner is a native and citizen of Mexico. Declaration of Adian Leyba (“Leyba Decl.”), ¶ 4; Declaration of Katherine G. Collins (“Collins Decl.”), Exh. A, 2023 I-213. On July 6, 2023, Petitioner was arrested by United States Border Patrol (USBP) officers in Kennewick, Washington and taken into federal custody. *See id.*; *see also* Collins Decl., Exh. B, 2013, I-200; Exh. C, Notice of Custody. USBP sought to arrest Petitioner because the agency was advised that Petitioner was present in the United States without authorization and subject to an INTERPOL Red Notice based on him being the subject of an arrest warrant from Mexico, for being the primary suspect in a violent kidnapping. Collins Decl., Exh. A, 2023 I-213. Petitioner was then charged as removable under Section 212(a)(6)(A)(i) as “an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.” Leyba Decl., ¶ 5; Collins Decl., Exh. D, NTA.

On October 18, 2023, Petitioner appeared before the Immigration Judge in Tacoma, Washington for a bond hearing. Leyba Decl., ¶ 6. At the time of the bond hearing, ICE did not have the required use authorization that would allow the agency to disclose the INTERPOL Red Notice in removal proceedings. Leyba Decl., ¶ 8; *see also* ICE Directive 15006.1: INTERPOL Red Notices and Wanted Person Diffusions (Sept. 2023), available at: http://ice.gov/doclib/foia/dro_policy_memos/15006.1_InterpolRedNoticesWpDiffusions.pdf. The Immigration Judge held the bond hearing pursuant to 8 U.S.C. § 1226(a), and ordered Petitioner released upon the payment of \$10,000 bond, along with any conditions imposed by ICE. Leyba Decl., ¶ 7; Collins Dec., Exh. E, IJ Bond Order. Petitioner was released from custody that same day and placed on the Alternative to Detention (“ATD”) program with periodic check-ins. Leyba Decl., ¶ 7. Following his release from custody, on August 29, 2025, ICE was granted

1 the required use authorization from U.S. National Central Bureau of the Department of Justice to
2 use to the Red Notice in removal proceedings. Leyba Decl., ¶ 8; Collins Dec., Exh. F, 2025 I-213.

3 On October 1, 2025, Petitioner attended an ATD check-in with ICE. *See id.* ICE
4 determined that Petitioner was amenable to arrest and bond cancellation based on the newly
5 obtained use authorization for the INTERPOL Red Notice. Collins Dec., Exh. F, 2025 I-213. That
6 day, ICE arrested Petitioner and cancelled his prior bond. Leyba Decl., ¶ 9; Collins Dec., Exh. F,
7 2025 I-213; Exh G, 2025 I-200, Exh. H, Bond Cancellation. Petitioner was transferred to the
8 Northwest ICE Processing Center, in Tacoma, Washington. Leyba Decl., ¶ 10.

9 On November 28, 2025, Petitioner appeared before the Immigration Judge for his
10 individual merits hearing. Leyba Decl., ¶ 11; Collins Dec., Exh. I, IJ Removal Order. The
11 Immigration Judge denied all Petitioner's applications for relief and ordered him removed to
12 Mexico. *See id.* On December 26, 2025, Petitioner appealed this decision to the Board of
13 Immigration Appeals; this appeal remains pending. Leyba Decl., ¶ 12. To date, Petitioner has not
14 requested a bond hearing before the Immigration Judge. Leyba Decl., ¶ 13.

15 On January 11, 2025, Petitioner filed the instant habeas petition challenging the
16 lawfulness of his current detention. Dkt. 1, Pet. Petitioner claims that his detention violates the
17 Fourth Amendment because it is "without probable cause." Dkt. 1, Pet. at ¶ 39-40. He additionally
18 claims that the revocation of his bond was in violation of his Fifth Amendment right to Due
19 Process. *Id.*, ¶ 42-43. Petitioner requests that the Court reinstate his prior bond. *Id.*, Prayer for
20 Relief.

21 LEGAL STANDARD

22 "Writs of habeas corpus may be granted by . . . the district courts . . . within their respective
23 jurisdictions." 28 U.S.C. § 2241(a). A petitioner may seek habeas relief by showing that he or she
24 is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C.

§ 2241(c). The petitioner bears the burden of proof by a preponderance of the evidence. *Davis v. Woodford*, 384 F.3d 628, 638 (9th Cir. 2004).

ARGUMENT

Petitioner's bond was properly revoked.

ICE discretionarily revoked Petitioner's bond in accordance with the governing statute and regulations. 8 U.S.C. § 1226(b); 8 C.F.R. 236.1(c)(9). Contrary to Petitioner's assertions that he is entitled to additional process, there is no statutory or regulatory requirement for a hearing before ICE revokes an individual's release and bond.¹ The Supreme Court has warned courts against reading additional procedural requirements into the Immigration and Nationality Act. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C. § 1231(a)(6) because "reviewing courts . . . are generally not free to impose [additional procedural rights] if the agencies have not chosen to grant them") (quoting *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)). Petitioner argues that Respondents revoked Petitioner's bond "for no apparent cause or reason," (Dkt. 1, Pet. at ¶ 43), however, DHS is not restricted from rearresting an alien absent a change in circumstance. *See Matter of Sugay*, 17 I&N, Dec. 637, 640 (B.I.A. 1981), *but see Saravia v. Sessions*, 905 F.3d 1137, 1145 n.10 (9th Cir. 2018) ("[T]he district court never held that Sugay requires these hearings."); *Bermudez Paiz v. Decker*, No. 18-cv-4759, 2018 WL 6928794, at *16 n.19 (S.D.N.Y. Dec. 27, 2018) (recognizing that *Sugay's* dicta is not

¹ Federal Respondents acknowledge that district courts have recently imposed pre-detention hearing requirements in the context of revocation of various forms of release. *See, e.g., E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025) (revocation of an OREC requires a pre-detention hearing to determine if that noncitizen is a flight risk or a danger to the community); *Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256, at *2 (E.D. Cal. Sept. 9, 2025) (pre-detention hearing required prior to revocation of the petitioner's release on bond); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1038 (N.D. Cal. 2025) (pre-detention hearing required prior to revocation of the petitioner's release her own recognizance).

1 “binding on ICE.”).

2 Petitioner’s arrest and bond cancellation also comports with procedural due process. “Due
3 process is flexible and calls for such procedural protections as the particular situation demands.”
4 *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that Petitioner’s
5 detention is consistent with his due process rights. Under *Mathews*, “[t]he fundamental
6 requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful
7 manner.” *Id.*, at 333 (internal quotation marks omitted). This calls for an analysis of (1) “the
8 private interest that will be affected by the official action,” (2) “the risk of an erroneous
9 deprivation of such interest through the procedures used, and probable value, if any, of additional
10 or substitute procedural safeguards,” and (3) the Government’s interest. *Id.*, at 334-35.

11 Federal Respondents recognize the “weighty liberty interests implicated by the
12 Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at
13 *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released
14 from immigration detention have a protected liberty interest in remaining out of custody, the
15 weight of that liberty must be considered in the broader picture of the immigration system, which
16 has long acknowledged that a noncitizen has a lesser liberty interest than a citizen. After all, “[t]he
17 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has
18 ‘firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that
19 would be unacceptable if applied to citizens.’” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206
20 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has
21 explained, “[i]n the exercise of its broad power over naturalization and immigration, Congress
22 regularly makes rules that would be unacceptable if applied to citizens.” *Mathews v. Diaz*, 426
23 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly “recognized detention during
24

1 deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore*,
2 538 U.S. at 523.

3 In this case, Petitioner has no lawful status in the United States and his release from
4 immigration custody was already conditional – upon payment of a bond and “any conditions set
5 by ICE/DHS.” Collins Decl., Exh. E, IJ Bond Order (emphasis added). Furthermore, ICE’s
6 decision to revoke Petitioner’s release and his bond was based on the agency’s new ability to rely
7 on Petitioner’s INTERPOL Red Notice, which verified that there is a warrant for Petitioner’s
8 arrest in Mexico for being a suspected violent kidnapper. Given these factors, Petitioner’s liberty
9 interest must be considered reduced.

10 Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation
11 of Petitioner’s liberty is minimal. As described, ICE has the lawful discretion to revoke an alien’s
12 release and cancel their bond “at any time.” 8 U.S.C. § 1226(b) and 8 C.F.R. 236.1(c)(9).
13 Additionally, as discussed below, Petitioner is subject to mandatory detention while his removal
14 proceedings are being resolved, without the opportunity for a bond redetermination. *Yajure-*
15 *Hurtado*, 29 I&N Dec. at 220. Any additional process that Petitioner demands would be futile as
16 his detention is based on his mandatory detention.

17 As for the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews* test
18 “must account for the heightened government interest in the immigration detention context.”
19 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the
20 Ninth Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in
21 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez*
22 *Diaz*, 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). “This is especially true when it
23 comes to determining whether removable aliens must be released on bond during the pendency
24 of removal proceedings.” *Rodriguez Diaz*, 53 F.4th at 1208. Again, ICE arrested Petitioner and

1 revoked his bond based on the agency's authorization to rely on the existence of an INTERPOL
2 Red Notice, indicating Petitioner was a wanted kidnapper in Mexico. The government's interest
3 in detaining individuals unlawfully present in the United States, who entered without inspection,
4 without any sort of background check process, and are known to be charged with committing
5 violent crimes is undeniably heightened.

6 In short, the three *Mathews* factors demonstrate that Petitioner's detention comports with
7 procedural due process.

8 **Petitioner is mandatorily detained under 8 U.S.C. 1225(b)**

9 While acknowledging the decisions in *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-
10 TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) and *Maldonado Bautista v. Santacruz*,
11 No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), Federal
12 Respondents continue to believe Petitioner is subject to mandatory detention pursuant to 8 U.S.C.
13 § 1225(b). *See Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 WL 2780351 (D. Neb. Sept. 30,
14 2025) (holding petitioner detained under 8 U.S.C. § 1225(b)(2)); *Sixtos Chavez v. Noem*, --- F.
15 Supp. 3d ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (same).

16 Congress intended for all applicants for admission to be detained during the course of their
17 removal proceedings. *See Jennings*, 583 U.S. at 299 (interpreting the "plain meaning" of sections
18 1225(b)(1) and (2) to mean that applicants for admission be mandatorily detained for the duration
19 of their immigration proceedings). The plain language of the statute is clear: Petitioner is subject
20 to detention under Section 1225(b)(2) because he is an applicant for admission. *Yajure-Hurtado*,
21 29 I&N Dec. at 220 (BIA 2025). The INA specifies that "[a]n alien present in the United States
22 who has not been admitted . . . shall be deemed for purposes of this Act an applicant for
23 admission." 8 U.S.C. § 1225(a)(1). Section 1225(b)(2)(A) requires mandatory detention of "an
24 alien who is an applicant for admission, if the examining immigration officer determines that an

1 alien seeking admission is not clearly and beyond a doubt entitled to be admitted[.]” 8 U.S.C.
 2 § 1225(b)(2)(A). Petitioner does not dispute that he is a noncitizen present in the United States
 3 who has not been admitted. Thus, Petitioner is an “applicant for admission” and subject to
 4 mandatory detention under Section 1225(b).

5 Alternatively, although Federal Respondents do not agree with the *Rodriguez Vazquez* and
 6 *Maldonado Bautista* decisions, Federal Respondents acknowledge that Petitioner’s circumstances
 7 are consistent with members of the *Rodriguez Vazquez* Bond Denial Class.² Federal Respondents
 8 do not oppose that Petitioner be considered a member of the class for purposes of this litigation.
 9 If the Court were to grant the habeas on this basis, the appropriate relief in this case is not to order
 10 Petitioner released on his prior bond, as he requests. Dkt. 1, Pet, Prayer for Relief. Petitioner’s
 11 prior bond was revoked and cancelled. Collins Decl., Exh. H, Bond Cancellation. Instead, the
 12 proper relief would be for this Court to order the Immigration Judge to provide Petitioner a new
 13 bond hearing pursuant to 8 U.S.C. § 1226(a), consistent with the Court’s judgement in *Rodriguez*,
 14 2025 WL 2782499, at *27.

15 **Petitioner’s Forth Amendment argument does not support a claim for relief.**

16 The factual allegations in the instant habeas petition do not support a claim for relief under
 17 the Fourth Amendment. Petitioner claims that his detention is “without probable cause,” but
 18 provides no facts, legal argument, or authority for this claim. Dkt. 1, Pet. at ¶ 39-40. He asserts
 19 that only certain officials may revoke bond under one section of the regulations, but again, does
 20 not provide any support that any violation has occurred or argument about how this relates to the

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 23 ² “**Bond Denial Class:** All noncitizens without lawful status detained at the Northwest ICE Processing Center who
 24 (1) have entered or will enter the United States without inspection, (2) are not apprehended upon arrival, (3) are not
 or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is
 scheduled for or requests a bond hearing.” *Rodriguez*, 2025 WL 2782499, at *6.

1 lawfulness of his detention, or his Fourth Amendment rights. “Conclusory allegations which are
2 not supported by a statement of specific facts do not warrant habeas relief” under 28 U.S.C. § 2241.
3 *Oosthuizen v. Ashcroft*, 96 F. App’x 494, 495 (9th Cir. 2004) (quoting *James v. Borg*, 24 F.3d 20, 26
4 (9th Cir. 1994).

5 CONCLUSION

6 Because Petitioner has not demonstrated by a preponderance of the evidence that “the fact
7 or duration of his confinement” violates any law, habeas relief must be denied. *Preiser v.*
8 *Rodriguez*, 411 U.S. 475, 489 (1973).

9 Alternatively, if the Court finds otherwise, the appropriate remedy in this case is not an
10 order of release on his prior bond, as that bond was cancelled. Instead, the appropriate remedy
11 would be to order the Immigration Judge to conduct a bond hearing pursuant to 8 U.S.C. §1226(a).
12 See *Rodriguez*, 2025 WL 2782499, at *27; *see also Vieira v. De Anda-Ybarra*, No. EP-25-CV-
13 00432-DB, 2025 WL 2937880, at *7 (W.D. Tex. Oct. 16, 2025) (concluding that detention
14 violated the petitioner’s procedural due process rights, district court declined petitioner’s request
15 for immediate release and instead order bond hearing before immigration judge).

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1 DATED this 26th day of January, 2026.

2 Respectfully submitted,

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16 *I certify that this memorandum contains 3,056*
17 *words, in compliance with the Local Civil Rules.*