

District Judge Tiffany M. Cartwright

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

ZAFAR IQBAL,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:26-cv-00171-TMC

FEDERAL RESPONDENTS'¹
RETURN MEMORANDUM

Noted for Consideration:
February 4, 2026.

U.S. Immigration and Customs Enforcement (“ICE”) lawfully detains Petitioner Zafar Iqbal pursuant to 8 U.S.C. § 1225(b)(1) as an arriving alien. After he unlawfully entered the United States without inspection in 2023, Petitioner was arrested by Border Patrol and placed in removal proceedings. Approximately one month later, ICE enrolled Petitioner in the Alternatives to Detention (“ATD”) program, which imposed supervision requirements as terms of Petitioner’s release. ICE arrested Petitioner in January 2026 after multiple ATD violations.

Petitioner incorrectly claims that his re-detention is unlawful and violates due process because he was not provided with written notice and a pre-deprivation hearing. This claim fails

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

1 to look at this case individually. While Petitioner asks this Court to release him from immigration
2 detention, granting such relief would require this Court to ignore Petitioner's repeated violations
3 of the conditions of his release. *Martinez Hernandez v. Andrews*, No. 1:25-cv-01035, 2025 WL
4 2495767, at *12 (E.D. Cal. Aug. 28, 2025) (finding post-deprivation process adequate due to
5 ATD violations). Accordingly, this Court should deny the Amended Petition.

6 I. FACTUAL BACKGROUND

7 Petitioner is a native and citizen of Pakistan. Declaration of Deportation Officer Yralees
8 Melendez ("Melendez Decl.") ¶ 3. Petitioner unlawfully entered the United States without
9 inspection on or about June 12, 2023, and was arrested by United States Border Patrol officers at
10 that time. *Id.* ¶ 4. Petitioner was determined to be inadmissible under Section 212(a)(6)(A)(i) of
11 the Immigration and Nationality Act ("INA") and issued a Notice to Appear ("NTA"). *Id.*;
12 Declaration of Alixandria K. Morris ("Morris Decl."), Exs. 1-2 (NTA; I-213).

13 On June 28, 2023, ICE released Petitioner on his own recognizance ("OREC"), Form 1-
14 220A, upon the conditions set forth in the Alternatives to Detention ("ATD") program, which
15 included wearing a GPS ankle monitoring unit. Melendez Decl. ¶ 5; Morris Decl., Ex. 3 (OREC).

16 On May 30, 2024, Petitioner filed an application for asylum, withholding of removal, and
17 protection under the Convention Against Torture with the Portland Immigration Court. Melendez
18 Decl. ¶ 7.

19 ATD violations are documented by BI Inc., the contractor who runs the ATD program.
20 *Id.* ¶ 8. ATD violations are recorded by BI, including the date and type of violation, and that
21 information is automatically pulled into an ICE database which ERO has ongoing access to in the
22 regular course of duties. *Id.* Deportation Officer Yralees Melendez has access to this database and
23 reviewed Petitioner's violations, which she declares reflect that Petitioner failed to complete
24

1 biometric check-ins on the scheduled time on April 29, May 20, June 17, and July 8, 2025, all in
2 violation of ATD and his release on OREC. *Id.* ¶ 8.

3 On January 3, 2026, ICE arrested Petitioner and remanded him back into ICE custody
4 based on a review of Petitioner's ATD violations. *Id.* ¶ 10. Petitioner was served a copy of his
5 arrest warrant (Form I-200) and was transferred to the Northwest ICE Processing Center. *Id.*;
6 Morris Decl., Exs. 4-5. Petitioner's OREC was cancelled by Assistant Field Office Director
7 Matthew Cantrell and Petitioner was provided notice of the cancellation. Melendez Decl. ¶ 10;
8 Morris Decl., Exs. 4-5.

9 On January 7, 2026, the Tacoma Immigration Court set a master calendar hearing for
10 February 5, 2026. Melendez Decl. ¶ 11. Petitioner is currently represented by counsel in the
11 immigration court proceedings. *Id.* Petitioner is not currently scheduled for a bond hearing before
12 an immigration judge. *Id.* ¶ 12. Petitioner is currently detained at the Northwest ICE Processing
13 Center. *Id.* ¶ 13.

14 II. LEGAL STANDARD

15 "The district courts of the United States ... are courts of limited jurisdiction. They possess
16 only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopah Servs.,*
17 *Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). "[T]he scope of habeas has been
18 tightly regulated by statute, from the Judiciary Act of 1789 to the present day." *Dep't of*
19 *Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28 U.S.C. § 2241 provides
20 district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas
21 corpus, the burden is on the petitioner to prove that his or his custody is in violation of the
22 Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v.*
23 *Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

III. ARGUMENT

A. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b).

Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b). 8 C.F.R. §§ 1.2 (definition of arriving alien), 235.3(c). 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 Thuraissigiam*, 591 U.S. at 106 (“[Congress] crafted a system for weeding out patently meritless claims and expeditiously removing the aliens making such claims from the country.”). Section 1225 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in the United States who [have] not been admitted” or noncitizens “who arrive[] in the United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

Expedited removal proceedings under Section 1225(b) include additional procedures if a noncitizen indicates an intention to apply for asylum² or expresses a fear of persecution, torture, or return to the noncitizen’s country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). If the asylum officer or immigration judge does not find a credible fear, the noncitizen is “removed from the United States without further hearing or review.” 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum officer or immigration judge finds a credible fear, the noncitizen is generally placed in full

² Noncitizens must apply for asylum within one year of arriving in the United States, 8 U.S.C. § 1558(a)(2)(B), except if the noncitizen can demonstrate “extraordinary circumstances” that justify moving that deadline. *Id.* § 1558(a)(2)(D).

1 removal proceedings under 8 U.S.C. § 1229a, but remains subject to mandatory detention. *See* 8
2 C.F.R. § 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

3 Expedited removal under Section 1225(b) is a distinct statutory procedure from removal
4 under Section 1229a. Section 1229(a) governs full removal proceedings initiated by a notice to
5 appear and conducted before an immigration judge, during which the noncitizen may apply for
6 relief or protection. By contrast, expedited removal under Section 1225(b)(1) applies in narrower,
7 statutorily defined circumstances and allows for their removal without a hearing before an
8 immigration judge, subject to limited exceptions. For these noncitizens, DHS has discretion to
9 pursue expedited removal under Section 1225(b)(1) or Section 1229a. *Matter of E-R-M- & L-R-*
10 *M-*, 25 I&N Dec. 520, 524 (BIA 2011).

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 he had at the time
17 of parole. *See id.*

18 Petitioner does not dispute that he is an arriving alien subject to mandatory detention.
19 Instead, he challenges his re-detention in December 2025 as violative of procedural due process.
20 *Pet.*, ¶¶ 4-6, 47-50. Petitioner asserts that DHS was required to provide him with written notice
21 and a pre-detention hearing before a neutral decisionmaker. *Id.*, ¶ 49. Although Federal
22 Respondents acknowledge that district courts have found that due process requires pre-detention
23 hearings prior to re-detention of an alien, as described below, due process did not require a pre-

1 detention hearing here. Accordingly, this Court should not grant Petitioner's request for
2 immediate release from immigration detention.

3 **B. Petitioner's re-detention did not require a pre-deprivation hearing to comply with**
4 **due process.**

5 A pre-deprivation hearing to determine whether Petitioner was a flight risk or dangerous
6 was not required prior to his arrest in September 2025. Pet., ¶¶ 4-6, 47-50. "Due process is flexible
7 and calls for such procedural protections as the particular situation demands." *Mathews v.*
8 *Eldridge*, 424 U.S. 319, 334 (1976). *Mathews* calls for an analysis of (1) "the private interest that
9 will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest
10 through the procedures used, and probable value, if any, of additional or substitute procedural
11 safeguards," and (3) the Government's interest. *Id.*, at 334-35. As described below, the facts in
12 this situation do not support a blanket requirement of written notice and a hearing prior to
13 Petitioner's detention.

14 Due process does not mandate a pre-detention hearing here. As to the first *Mathews*
15 factor, Federal Respondents recognize the "weighty liberty interests implicated by the
16 Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at
17 *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released
18 from immigration detention have a protected liberty interest in remaining out of custody, the
19 weight of that liberty must be considered in the broader picture of the immigration system, which
20 has long acknowledged that an alien has a lesser liberty interest than a citizen. *Rodriguez Diaz v.*
21 *Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)).

22 As the Supreme Court has explained, "[i]n the exercise of its broad power over
23 naturalization and immigration, Congress regularly makes rules that would be unacceptable if
24 applied to citizens." *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). Indeed, the Supreme Court

1 has repeatedly “recognized detention during deportation proceedings as a constitutionally valid
2 aspect of the deportation process.” *Demore*, 538 U.S. at 523. Thus, Federal Respondents
3 acknowledge that Petitioner had some liberty interest in his continued freedom from detention
4 while on parole. While Petitioner possessed a conditional liberty interest while on parole, that
5 interest was expressly contingent on compliance with ATD conditions. His repeated violations
6 substantially reduced the weight of that interest.

7 Importantly, as an arriving alien who was paroled into the United States, Supreme Court
8 precedent requires a “legal fiction” to be imposed on Petitioner so that he is treated as at the
9 threshold of entry – as opposed to within this country’s borders[.]” *Thuraissigiam*, 591 U.S. at
10 107. As a result, Petitioner remains in a fundamentally different and less protected position than
11 “those who are within the United States after an entry, irrespective of its legality.” *Leng May Ma*
12 *v. Barber*, 357 U.S. 185, 187 (1958).

13 Turning to the second *Mathews* factor, the risk of a constitutionally significant and
14 erroneous deprivation of Petitioner’s liberty did not necessitate a pre-deprivation hearing. The
15 Supreme Court has held that “the Constitution requires some kind of hearing *before* the State
16 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (emphasis
17 in the original). But in the same opinion, the Court also recognized that a pre-deprivation hearing
18 is not appropriate in every situation. *Id.*, at 128 (noting there may be “special case[s]” where a
19 pre-deprivation hearing is impracticable). Petitioner’s re-detention qualifies as a special case due
20 to his ATD violations.

21 In *Martinez Hernandez v. Andrews*, the district court found that allegations of ATD
22 violations that “are not obviously pretextual as in *E.A.T.-B*”³ provided at least an arguable basis
23

24 ³ *E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).

1 “that providing [the petitioner] with notice and a pre-deprivation hearing would have been
2 impracticable and/or would have motivated his flight.” *Martinez Hernandez*, 2025 WL 2495767,
3 at *11-12. Instead of a pre-deprivation hearing, the district court found that any risk of erroneous
4 deprivation could be reduced through a “prompt, post-deprivation process.” *Id.* (collecting cases).

5 There is no need for an evidentiary hearing to determine Petitioner’s status as an arriving
6 alien – as that would not change from his initial entry. To wit, a pre-deprivation hearing would
7 be futile as his detention is based on his mandatory detention. An analysis of Petitioner’s
8 dangerousness or flight risk is likewise not relevant. However, if this Court were to order a
9 hearing, Petitioner should not be released as his ATD violations provided ICE with a basis to
10 arrest him without notice. Instead, if this Court were to grant relief, it should order Petitioner be
11 provided with a post-deprivation hearing.

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

22 Federal Respondents acknowledge that district courts have found that the revocation of
23 parole (or an OREC) requires a pre-deprivation hearing to determine if that noncitizen is a flight
24 risk or a danger to the community. *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); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025).

However, “[a] decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case.” *Camreta v. Greene*, 563 U.S. 692, 709 n.7 (2011) (internal quotations omitted). While *Camreta* arose in the qualified-immunity context, the Court’s reasoning applies with equal force here.

Here, Petitioner is subject to mandatory detention as an arriving alien. Where detention is mandatory, a pre-detention hearing would serve no purpose because release is not legally available. *Calderon v. Noem*, No. 2:25-cv-2136, 2025 WL 3754042, at *8 (W.D. Wash. Dec. 29, 2025) (“The cases cited by Mr. Calderon are inapposite because none of them involved mandatory detention (under the LRA or otherwise).”) “Accordingly, a pre-detention hearing could only have one outcome: detention.” *Id.* Accordingly, Petitioner is lawfully detained, and this Court should deny his request for release from immigration custody.

IV. CONCLUSION

For the foregoing reasons, this Court should deny the Petition.

Dated this 30th day of January, 2026.

Respectfully submitted,

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I certify that this memorandum contains 2,454 words, in compliance with the Local Civil Rules.