

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Vadim ZAVORIN

Petitioner,

v.

Cammilla WAMSLEY, Seattle Field Office
Director, Enforcement and Removal Operations,
United States Immigration and Customs
Enforcement (ICE); et al.,

Respondents.

Case No: 2:26-cv-173

**TRAVERSE IN SUPPORT OF
PETITION FOR WRIT OF HABEAS
AND RESPONSE TO ANSWER**

Noting Date: February 2, 2026

TRAVERSE IN SUPPORT OF PETITION FOR WRIT
OF HABEAS AND RESPONSE TO ANSWER
Case No: 2:26-cv-173

Stephen C. Robbins
Robbins Law, PLLC
6 South 2nd St. Ste. 1002
Yakima, WA 98901
Telephone (509) 823-4523

INTRODUCTION

This is a case about due process—specifically, the Constitution’s demand that the government not revoke an individual’s established liberty by unilateral fiat.

The petitioner was briefly detained at the border in November of 2022 after entering the United States under the CBP One program. He was paroled and issued a notice to appear in immigration court. Since that time Mr. Zavorin has attending his hearings, filed his asylum application, and made every effort to comply with his community custody.

He was redetained on January 5, 2026 in the Home Depot parking lot in Everett, Washington.¹ The administrative warrant contains boilerplate language about Mr. Zavorin’s removability and lack of lawful status, but makes not claim about Mr. Zavorin being a flight risk or danger ot the community. *See*, Exhibit F.

Most importantly, Mr. Zavorin was not provided written notice or the chance to present his case before a neutral decisionmaker to determine whether re-detention was warranted based on individualized findings of flight or danger.

That is the constitutional defect at the center of this litigation. Due process protects “freedom from imprisonment—from government custody, detention, or other forms of physical restraint,” and it requires notice and an individualized hearing before a neutral decisionmaker before the government revokes a person’s established liberty. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970); *Morrissey v. Brewer*, 408 U.S. 471, 485 (1972). Courts in this District have repeatedly applied those principles to immigration re-detention and held that pre-deprivation process is required. *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, No.

¹ Respondents have redacted “Home Depot” in Exhibit E of their I-213, however, Mr. Zavorin indicates that is where he was detained.

1 2:25-CV-01723-MJP-TLF, 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); *Kumar v. Wamsley*,
2 No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025).

3 The Court should grant the Petition, order Petitioner's immediate release, and enter
4 prospective relief requiring Respondents to provide constitutionally sufficient pre deprivation
5 procedures before any future effort to re-detain Petitioner.

6 ARGUMENT

7 I. Respondents Re-Detained Petitioner Without the Process the Constitution 8 Requires—and They Do Not Dispute That Failure.

9 This case turns on a straightforward constitutional defect.

10 Respondents re-detained Petitioner after a prolonged period of liberty in the
11 community without affording her any pre-deprivation hearing before a neutral decisionmaker
12 at which ICE was required to justify the deprivation of liberty. Respondents do not
13 meaningfully contest that such process is constitutionally required.

14 The Supreme Court has long held that conditional liberty is liberty nonetheless. When
15 the government confers freedom from physical custody—whether styled as parole, probation,
16 or supervised release—it creates a protected liberty interest that cannot be revoked without
17 due process. *Morrissey v. Brewer*, 408 U.S. 471, 481–84 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778,
18 782 (1973); *Young v. Harper*, 520 U.S. 143, 147–49 (1997).

19 *Morrissey* explains why. Conditional liberty permits a person “to live and work in the
20 community,” to form relationships, and to rely on the government’s implicit assurance that
21 liberty will not be withdrawn absent cause. 408 U.S. at 482. Revocation “inflicts a grievous
22 loss” and therefore triggers the protections of the Due Process Clause. *Id.* at 481.

23 Courts applying *Morrissey* in the immigration context have reached the same
conclusion: release from immigration detention gives rise to a constitutionally protected liberty

1 interest inherent in the Due Process Clause itself. See *Guillermo M. R. v. Kaiser*, No. 25-cv-
2 05436-RFL, 2025 WL 1983677, at *4 (N.D. Cal. July 17, 2025); *Ortega v. Kaiser*, No. 25-cv-
3 05259-JST, 2025 WL 1771438, at *3 (N.D. Cal. June 26, 2025).

4 The petitioner's experience fits squarely within this framework. He lived in the
5 community since 2022 and has made every effort to pursue his asylum application.

6 **II. Under *Mathews v. Eldridge*, Due Process Required a Pre-Deprivation Hearing—
and Every Factor Favors Petitioner**

7 Whether due process requires particular procedures is assessed under *Mathews v.*
8 *Eldridge*, 424 U.S. 319 (1976), which weighs the:

- 9 (1) Private interest affected;
10 (2) Risk of erroneous deprivation and the value of additional safeguards; and
11 (3) Government's interest.

12 *Id.* at 335. Each factor points decisively in one direction.

13 **1. Petitioner's Interest in Freedom from Physical Confinement Is Profound**

14 "Freedom from imprisonment—from government custody, detention, or other forms
15 of physical restraint—lies at the heart of the liberty that the Due Process Clause protects."
16 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

17 Courts in this District have repeatedly recognized that re-detention after release
18 deprives a noncitizen of an already-vested liberty interest. *E.A. T.-B. v. Wamsley*, 2025 WL
19 2402130, at *3 (W.D. Wash. Aug. 19, 2025); *Ramirez Tesara v. Wamsley*, 2025 WL 2637663, at
20 *3 (W.D. Wash. Sept. 12, 2025). That interest is particularly weighty where, as here, Petitioner
21 had been living openly in the community in compliance with all government requirements.

22 The D.C. Circuit has explained that "a person who is in fact free of physical
23 confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles

1 him to constitutional due process before he is re-incarcerated.” *Hurd v. District of Columbia*,
2 864 F.3d 671, 683 (D.C. Cir. 2017).

3 Respondents’ Return does not grapple with this interest. The first Mathews factor
4 weighs heavily in Petitioner’s favor.

5 **2. Unilateral ICE Re-Detention Creates an Acute Risk of Error—Neutral**
6 **Review Substantially Reduces That Risk**

7 The risk of erroneous deprivation is substantial when ICE acts as investigator,
8 prosecutor, and jailer—revoking liberty based on its own unreviewed determinations.

9 This Court has already identified that precise danger in a series of recent re-detention
10 cases, holding that revocation of release without a pre-deprivation hearing presents an
11 unacceptably high risk of error. *E.A. T.-B.*, 2025 WL 2402130, at *4–5; *Ramirez Tesara*, 2025
12 WL 2637663, at *3–4; *Kumar v. Wamsley*, 2025 WL 2677089, at *3–4; *Ledesma Gonzalez v.*
13 *Wamsley*, 2025 WL 2841574, at *7–9 (W.D. Wash. Sept. 29, 2025).

14 The Ninth Circuit has similarly recognized that DHS’s internal custody assessments
15 are not an adequate substitute for neutral adjudication. *Dionf v. Napolitano*, 634 F.3d 1081, 1092
16 (9th Cir. 2011).

17 Petitioner’s case illustrates the problem. ICE provided no contemporaneous
18 explanation for re-detention, no assessment of flight risk or danger, and no opportunity for
19 Petitioner to contest the deprivation before it occurred. They claim to have been doing
20 targeted surveillance, however, the evidence suggests Mr. Zavorin was subject to a random
21 enforcement event in a Home Depot parking lot.

22 **3. The Government’s Interest Does Not Justify Dispensing with Fundamental**
23 **Process**

The government’s interest in enforcing the immigration laws does not depend on
abandoning constitutional safeguards. Immigration custody hearings are routine,

1 administratively modest, and already embedded in the system. See *Ortega v. Bonnar*, 415 F. Supp.
2 3d 963, 970 (N.D. Cal. 2019); *Doe v. Becerra*, 2025 WL 691664, at *6 (E.D. Cal. Mar. 3, 2025).

3 Nothing in Petitioner's history suggests that a brief, pre-deprivation hearing would
4 have impaired removal efforts or public safety. To the contrary, such a hearing would have
5 avoided unlawful detention altogether.

6 All three Mathews factors converge: due process required a pre-deprivation hearing
7 before a neutral adjudicator at which Respondents bore the burden of justification.
8 Respondents provided none.

9 CONCLUSION

10 The Due Process Clause does not permit Respondents to re-detain Petitioner—after
11 years of established liberty in the community—without notice and a pre-deprivation hearing
12 before a neutral decisionmaker at which ICE must justify the deprivation of liberty by
13 individualized findings. Petitioner was seized in December, and has remained detained since,
14 without the basic procedures the Constitution requires at the moment liberty is revoked. The
15 Court should grant the writ, order Petitioner's immediate release, and enter prospective relief
16 declaring that Petitioner's re-detention without a neutral, pre-deprivation individualized
17 determination violates the Due Process Clause.

18 Dated: Wednesday, January 28, 2026

19 s/ Stephen C. Robbins
20 Stephen Robbins, WSBA No. 53398
21 stephen@robbinsimmigration.com
22
23