

Magistrate Judge Brian A. Tsuchida

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

HARJEET SINGH,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

Case No. 2:26-cv-00486-BAT

FEDERAL RESPONDENTS'¹ RETURN

Noted for Consideration:
March 2, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement (“ICE”) detains Petitioner Harjeet Singh at the Northwest ICE Processing Center pursuant to 8 U.S.C. § 1225(b)(2). In 2022, U.S. Border Patrol (“USBP”) encountered Petitioner shortly after he unlawfully entered the United States. Petitioner was issued a Notice to Appear (“NTA”) and released on a \$3,000 bond. The bond and the NTA warned Petitioner that he must keep Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) updated with his address.

¹ Bruce Scott is not a federal official and not represented by the undersigned.

1 Petitioner asserts he complied with all conditions. Dkt. 1 Petition (“Pet.”), ¶ 4. However,
2 Petitioner neither informed DHS nor EOIR that he had moved from California to Montana.
3 Petitioner asks this Court to order his release and “permanently” enjoin his re-detention during
4 removal proceedings “absent written notice and a hearing prior to re-detention where Respondents
5 must prove by clear and convincing evidence that Petitioner is a flight risk or danger to the
6 community and that no alternatives to detention would mitigate those risks.” *Id.*, Prayer for Relief
7 ¶(2).

8 This Court should deny the relief sought here. ICE lawfully re-detained Petitioner.

9 II. BACKGROUND

10 A. Petitioner Harjeet Singh

11 Petitioner is a citizen of India who entered the United States without inspection or parole
12 on or about June 13, 2022, and was apprehended shortly thereafter by USBP. Declaration of Jordan
13 Steveson (“Steveson Decl.”), Exh. A, 2022 I-213. On June 15, 2022, USBP issued Petitioner a
14 NTA. Steveson Decl., Exh. B, NTA. Petitioner is charged with removal for being inadmissible
15 pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* Petitioner was released on \$3,000 bond by DHS.
16 Steveson Decl., Exh. C, Bond Determination. Both the NTA and the bond documentation required
17 notification to the immigration court and DHS of any change of address. Steveson Decl., Exh. B-C.

18 In 2022, Petitioner notified the immigration court and ICE of his address in California.
19 Declaration of Deportation Officer Yralees Melendez (“Melendez Decl.”), ¶ 9; Steveson Decl.,
20 Exh. E. However, at some point, Petitioner relocated to Montana where he lived and worked.
21 Melendez Decl., ¶ 14; Steveson Decl, Exh. D, 2026 I-213.

22 On January 27, 2026, Petitioner was encountered and eventually detained in Libby,
23 Montana by USBP. *Id.* Prior to detaining Petitioner, USBP learned Petitioner’s name and that he
24 had been living in Montana for several months. Steveson Decl., Exh. D, 2026 I-213. Petitioner

1 did not report his relocation from California to Montana to immigration court or immigration
2 officials. Steveson Decl., Exh. D, 2026 I-213; Melendez Decl., ¶ 14. Petitioner also did not report
3 his change of address to DHS as required. *Id.* Based in part on Petitioner's relocation and failure
4 to maintain contact with DHS, USBP revoked Petitioner's release. Steveson Decl., Exh. D, 2026
5 I-213. On January 29, 2026, Petitioner was transferred to the Northwest ICE Processing Center in
6 Tacoma, Washington. Melendez Decl., ¶ 15.

7 **B. Legal Background**

8 Section 1225 applies to "applicants for admission" to the United States, who are defined
9 as "[a]n alien present in the United States who has not been admitted or who arrives in the United
10 States (whether or not at a designated port of arrival and including an alien who is brought to the
11 United States after having been interdicted in international or United States waters)." 8 U.S.C. §
12 1225(a)(1). Applicants for admission "fall into one of two categories, those covered by §
13 1225(b)(1) and those covered by § 1225(b)(2)," both of which are subject to mandatory detention.
14 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

15 All applicants for admission are inspected. 8 U.S.C. 1225(b). DHS has discretion to pursue
16 expedited removal under Section 1225(b)(1) or it can apply Section 1225(b)(2) and seek removal
17 under Section 1229a. *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523-524 (BIA 2011). If the
18 immigration authority determines that the noncitizen being inspected is inadmissible, then Section
19 1225(b)(2) is applied. *Jennings*, 583 U.S. at 288.

20 The sole means of release from detention pursuant to Section 1225(b) is temporary parole
21 'for urgent humanitarian reasons or significant public benefit,' § 1182(d)(5)(A)." *Jennings*, 583
22 U.S. at 283. This parole terminates automatically at the expiration of the time for which parole
23 was authorized, or upon service of a charging document for either expedited removal proceedings
24 under Section 1225(b) or removal proceedings under Section 1229a. 8 C.F.R. §§ 212.5(e)(1);

1 (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at the time
2 of parole. *See id.*

3 An individual in Section 1229a proceedings is required to keep his address updated with
4 the immigration court. 8 U.S.C. § 1229a(a)(1)(F).

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

6 “Any officer authorized to issue a warrant of arrest may, in the officer’s discretion, release
7 an alien . . . provided that the alien must demonstrate to the satisfaction of the officer that such
8 release would not pose a danger to property or persons, and that the alien is likely to appear for
9 any future proceeding.” 8 C.F.R. § 1236.1(c)(8). Section 236.1(c)(9) provides for the revocation
10 of such release: “When an alien who, having been arrested and taken into custody, has been
11 released, such release may be revoked at any time in the discretion of the district director, acting
12 district director, deputy district director, assistant district director for investigations, assistant
13 district director for detention and deportation, or officer in charge (except foreign), in which event
14 the alien may be taken into physical custody and detained.”

15 **III. ARGUMENT**

16 **A. Petitioner’s detention is lawful.**

17 Federal Respondents’ position is that Petitioner is mandatorily detained pursuant to 8
18 U.S.C. § 1225(b)(2)(A). *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th
19 Cir. Feb. 6, 2026) (affirming the government’s position that aliens who have not been admitted or
20 are not entitled to be admitted to the United States are “applicants for admission” who are subject
21 to mandatory detention under Section 1225(b)(2)(A)). As the Fifth Circuit recently found, aliens
22 who are present without admission in the United States are “applicants for admission” as defined
23 in Section 1225(a)(1). *Buenrostro-Mendez*, 2026 WL 323330, at *4. The court clarified that an
24

1 “applicant for admission” is a person “seeking admission” regardless of whether that person is
2 actively engaged in admissions procedures when detained. *Id.*, at 5-6.

3 Federal Respondents acknowledge that courts in this District, including this Court, have
4 reached the opposite result on the legal issue of whether detention of certain noncitizens is
5 governed by Section 1226(a) or 1225(b). *Lucena-Ojeda v. Noem*, No. 2:26-CV-00085-BAT, 2026
6 WL 279353, at *1 (W.D. Wash. Feb. 3, 2026); *see also Rodriguez Vazquez v. Bostock*, No. 3:25-
7 cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). However, Petitioner does not
8 contest the statutory basis of his detention here. Instead, he claims that his re-detention violates
9 due process. Pet., ¶¶ 46-49.

10 **B. Due process does not require a pre-detention hearing**

11 Petitioner’s re-detention comports with procedural due process. “Due process is flexible
12 and calls for such procedural protections as the particular situation demands.” *Mathews v.*
13 *Eldridge*, 424 U.S. 319, 334 (1976). The *Mathews* test demonstrates that Petitioner’s detention is
14 consistent with his due process rights. Under *Mathews*, “[t]he fundamental requirement of due
15 process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.*, at
16 333 (internal quotation marks omitted). This calls for an analysis of (1) “the private interest that
17 will be affected by the official action,” (2) “the risk of an erroneous deprivation of such interest
18 through the procedures used, and probable value, if any, of additional or substitute procedural
19 safeguards,” and (3) the Government’s interest. *Id.*, at 334-35.

20 Federal Respondents recognize the “weighty liberty interests implicated by the
21 Government’s detention of noncitizens.” *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at
22 *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released
23 from immigration detention have a protected liberty interest in remaining out of custody, the
24 weight of that liberty must be considered in the broader picture of the immigration system, which

1 has long acknowledged that a noncitizen has a lesser liberty interest than a citizen. After all, “[t]he
2 recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has
3 ‘firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that
4 would be unacceptable if applied to citizens.’” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206
5 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). As the Supreme Court has
6 explained, “[i]n the exercise of its broad power over naturalization and immigration, Congress
7 regularly makes rules that would be unacceptable if applied to citizens.” *Mathews v. Diaz*, 426
8 U.S. 67, 79-80 (1976). Indeed, the Supreme Court has repeatedly “recognized detention during
9 deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore*,
10 538 U.S. at 523.

11 Turning to the second *Mathews* factor, the risk of a constitutionally significant deprivation
12 of Petitioner’s liberty is minimal and did not necessitate a pre-deprivation hearing. The Supreme
13 Court has held that “the Constitution requires some kind of hearing *before* the State deprives a
14 person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in the
15 original). But in the same opinion, the Court also recognized that a pre-deprivation hearing is not
16 appropriate in every situation. *Id.*, at 128 (noting there may be “special case[s]” where a pre-
17 deprivation hearing is impracticable). Petitioner’s re-detention qualifies as a special case as he
18 failed to comply with a significant release requirement: keeping immigration authorities apprised
19 of where he is living. Thus, Petitioner arguably posed a flight risk and a pre-deprivation hearing
20 could have motivated his flight. *Martinez Hernandez v. Andrews*, No. 1:25-cv-01035, 2025 WL
21 2495767, at *11-12 (E.D. Cal. Aug. 28, 2025) (finding post-deprivation process adequate due to
22 release violations).

23 As for the third *Mathews* factor, the Ninth Circuit has emphasized that the *Mathews* test
24 “must account for the heightened government interest in the immigration detention context.”

1 *Rodriguez Diaz*, 53 F.4th at 1206. Invoking the Supreme Court’s 2003 *Demore* decision, the Ninth
2 Circuit in *Rodriguez Diaz* recognized that “the government clearly has a strong interest in
3 preventing aliens from ‘remain[ing] in the United States in violation of our law.’” *Rodriguez Diaz*,
4 53 F.4th at 1208 (quoting *Demore*, 538 U.S. at 518). “This is especially true when it comes to
5 determining whether removable aliens must be released on bond during the pendency of removal
6 proceedings.” *Rodriguez Diaz*, 53 F.4th at 1208.

7 Federal Respondents acknowledge that this Court has found that the revocation of an order
8 of release on recognizance pursuant to 8 C.F.R. § 1236.1(c)(8) required a pre-deprivation hearing,
9 but the Court also acknowledged that “the specific circumstances of redetention drive what process
10 is due.” *Lucena-Ojeda v. Noem*, No. 2:26-cv-00085-BAT, 2026 WL 279353, at *3 (W.D. Wash.
11 Feb. 3, 2026). Here, USBP encountered Petitioner living and working several states away from
12 where Petitioner was supposed to be. Granting release as requested by Petitioner would require
13 this Court to ignore Petitioner’s decision to relocate from California to Montana without informing
14 immigration authorities.

15 **C. Enjoining potential future redetention is premature.**

16 This Court should deny Petitioner’s request to “permanently enjoin his re-detention during
17 the pendency of his removal proceeding absent written notice and a hearing prior to re-detention
18 where Respondents must prove by clear and convincing evidence that Petitioner is a flight risk or
19 a danger to the community and that no alternatives to detention would mitigate those risks.” Pet.,
20 Prayer for Relief, ¶ (2). This request is speculative and not ripe for review. *Torres v. Hermosillo*,
21 No. 2:25-cv-02687-LK, 2026 WL 145715, at *8 (W.D. Wash. Jan. 20, 2026) (denying request for
22 permanent injunctive relief). This request presumes that Petitioner will be released and then re-
23 detained at some point.

This Court has no way to foresee what circumstances may lead to a purported redetention. For example, Petitioner could commit a criminal offense that makes his detention mandatory under the Laken Riley Act or he could be convicted of serious criminal offense that would subject him to mandatory detention. 8 U.S.C. § 1226(c). A pre-deprivation hearing would not be necessary under those circumstances. 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.*

Petitioner also asks this Court to write in the terms of his release, for example, prohibiting GPS monitoring unless special conditions are met. Pet., Prayer for Relief, ¶ 3. Petitioner admits that his workplace was in Montana. Pet., ¶ 5. Such relief would impinge on ICE’s discretionary authority to set terms of release and also would require this Court to ignore Petitioner moving out of state without informing immigration authorities.

CONCLUSION

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

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1 DATED this 25th day of February, 2026.

2 Respectfully submitted,

3 s/ Jordan C. Steveson

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13 *I certify that this memorandum contains 2,148*
14 *words, in compliance with the Local Civil Rules.*