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

HASAN OMER HUSEN,

Petitioner,

v.

KRISTI NOEM, Secretary for the Department
of Homeland Security; TODD LYONS, Acting
Director, Immigration and Customs
Enforcement; LAURA HERMOSILLO, Field
Office Director, Immigration and Customs
Enforcement Seattle Field Office; BRUCE
SCOTT, Warden, Northwest ICE Processing
Center,

Respondents.

Case No. 2:26-cv-00498-JHC

**PETITIONER'S TRAVERSE TO
FEDERAL RESPONDENTS' RETURN
MEMORANDUM**

Noted for Consideration: March 3, 2026

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner does not dispute Respondents' recitation of facts in this case. He emphasizes that his arrest occurred without an alleged violation of his OREC, that an administrative warrant was created *after* he was tracked and observed by ICE agents, and that the Respondents have failed to elaborate on the "immigration violation" responsible for the seventy-one days he's now spent in federal custody. At the time of his arrest, Petitioner had not failed to report for immigration court or an interview with the DHS, changed his place of residence without first securing written permission, violated any local, State, or Federal laws, and had never been ordered removed from the United States. *See* Dckt. Ent. 6-2, p. 2 (Order of Release on Recognizance, 4/19/2023).

Petitioner also agrees that 8 C.F.R. § 241.13 does not apply to this case. He apologizes for the oversight and admits that the references at pages ten and twelve of Docket Entry 1 were mistakenly left in his draft. This case is one of pre-order detention and Petitioner has appealed his removal order to the Board of Immigration Appeals. *See* Exh. "A."

II. ARGUMENT

In many cases, the U.S. Constitution can be interpreted as trumping the strict interpretation of statutory law. It is appropriate for the Court to make such a finding here. Petitioner does not seek a bond hearing and has already conceded being ineligible for one under *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). What he's requesting in this case is a prompt release from custody, as his substantive due process rights were violated through the arbitrary, capricious, and unlawfully excessive actions of ICE.

1 This Court is not bound by Fifth Circuit precedent, but even if it were, *Buenrostro-*
2 *Mendez v. Bondi* would be inapplicable. *Buenrostro-Mendez* is limited solely to whether
3 unlawful entrants into the United States should be afforded bond jurisdiction pursuant to 8
4 U.S.C. § 1226(a); the decision is not concerned with matters of re-detention, nor does it discuss
5 the due process rights of noncitizens. *Buenrostro-Mendez*, 25-20496, 2026 WL 32330, at *20-21
6 (5th Cir. Feb. 6, 2026). Moreover, the discretionary revocation of an OREC may sometimes be
7 permissible under 8 C.F.R. § 236.1(c)(9) - when made by the appropriate person - but the APA
8 still requires that regulatory acts not be an abuse of discretion, arbitrary, capricious, in excess of
9 statutory authority, or without observance of procedure as required by law. 5 U.S.C. §
10 706(2)(A)-(D). Respondents seem to be arguing that any of the estimated 14 million people
11 living in the United States without immigration status are subject to arrest at any time and for
12 any reason. Petitioner does not agree with that stance, as all those people are unquestionably
13 afforded rights under the federal constitution.

14 Turning to *Mathews*, Petitioner disputes that his liberty interest is “substantially
15 attenuated.” He has lived in the United States for two-and-a-half years, and as someone who was
16 previously released from custody (even if conditionally), he decisively carries a “liberty interest
17 which is entitled to the full protections of the [D]ue [P]rocess [C]lause.” *Ramirez Tesara v.*
18 *Wamsley*, No: 2:25-cv-01723-MJP-TLF, 2025 WL 2637663, at *3 (W.D. Wash. Sept. 12, 2025).
19 He has fulfilled all conditions to his OSUP and did not work in the United States without
20 authorization; the government reaffirmed his liberty interest for more than thirty-two months,
21 ultimately returning him to custody on a basis that cannot be explained with a level of specificity
22 beyond “an immigration violation.” The first *Mathews* factor should favor Petitioner.

1 Regarding the second factor, it is erroneous to say that Petitioner's OREC revocation was
2 not a "summary revocation." This is especially true as the Respondents cannot even describe
3 *why* the discretion to revoke his OREC was applied. That the Immigration Judge denied relief in
4 this case is immaterial to a discussion of Respondent's custody; he has appealed the removal
5 order and identified viable appellate grounds to pursue. Exh. "A." Simply stated, a pre-arrest
6 process before a neutral decisionmaker would have held significant probative value in this case
7 and, as this Court finds time and again, it is a process that's required by the Constitution.

8 Finally, the government has no compelling interest in using its resources to detain a
9 person like Petitioner. It does not logically follow that immigration law enforcement within the
10 interior of the United States "serves the core interest in controlling the border," and the
11 government has no convincing reason to ensure unadmitted aliens do not remain "at large" while
12 their removal proceedings are pending. In this region alone, there are roughly 50,000 matters on
13 the non-detained docket of the Seattle Immigration Court; is Respondents' argument that very
14 existence of that docket is bad for the United States? If so, Petitioner does not agree, and he
15 charges that the Respondents have failed to propose a convincing argument regarding the third
16 *Mathews* factor.

17 III. CONCLUSION

18 In short, Petitioner maintains that his statutory and constitutional rights were violated,
19 and requests that the Court grant his petition for writ of habeas corpus.

Respectfully submitted,

Dated: March 3rd, 2026

s/ Benjamin Cornell
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I certify that this memorandum conforms with the local rules as it is 976 words in length.