

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

WILBER SALMERON VAQUI,  
Petitioner,  
v.  
JAREMY CASEY, Administrator of  
Imperial Detention Center, et al.,  
Respondents.

Case No.: 26cv704-LL-MMP

**ORDER GRANTING IN PART  
PETITION FOR WRIT OF HABEAS  
CORPUS**

[ECF No. 1]

Presently before the Court is Petitioner Wilber Antonio Salmeron Vaqui's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. ECF No. 1 ("Pet."). Also before the Court is Respondents' Response to Petition, and Petitioner's Traverse. ECF Nos. 4, 5. For the reasons set forth below, the Court **GRANTS IN PART** Petitioner's Petition for Writ of Habeas Corpus.

## 1. BACKGROUND

Petitioner is a citizen of El Salvador who has been in immigration detention at the Imperial Regional Detention Center since June 14, 2025. *Id.* ¶ 23. Petitioner has been residing in the United States since 2012. *Id.* ¶ 1. He arrived in the United States as a minor and was later apprehended by border officials. *Id.* Petitioner was previously designated as an unaccompanied minor and states that 8 U.S.C. § 1225(b)(2)(A) does not apply to individuals like him because the authority by which the Department of Homeland Security

1 (“DHS”) could detain him is governed by another statute, the Trafficking Victims  
2 Protection and Reauthorization Act (“TVPRA”). *Id.* ¶ 7. Petitioner states that the TVPRA  
3 does not mandate detention, and instead requires DHS to consider the “least restrictive  
4 alternative to detention programs.” *Id.* (citing 8 U.S.C. § 1232(c)(2)(B)). Notwithstanding  
5 this, Petitioner alleges that he has been denied bond (twice) pursuant to 8 U.S.C. §  
6 1225(b)(2)(A) by an Immigration Judge for lack of jurisdiction to hear the case. Pet. ¶¶ 6,  
7 10, 11.

8 Petitioner states that when he arrived in the United States as an unaccompanied  
9 minor in 2012, he was transferred to the Office of Refugee Resettlement (“ORR”). *Id.* ¶  
10 29. He was ultimately released to be with his father shortly after he crossed the border near  
11 Hidalgo, Texas. *Id.* Petitioner states that when he was released a determination was made  
12 that he was not a flight risk, danger to himself, or to the community. *Id.* ¶ 44. Petitioner  
13 also states that “once released from ORR custody, federal agents must be able to present  
14 evidence of materially changed circumstances to justify re-detention of an unaccompanied  
15 minor.” *Id.* (internal citation omitted).

16 Petitioner has three U.S. citizen siblings, including a sister currently serving in the  
17 United States Army, and a Lawful Permanent Resident father. *Id.* ¶ 5. Petitioner also has  
18 three young United States citizen children, including one infant daughter who was born  
19 while he has been in custody. *Id.* ¶ 30. He has no criminal history, is the sole provider for  
20 his family, and has been steadily employed in the construction industry for over a decade.  
21 *Id.* He has significant ties to the United States and is not a danger to the community nor a  
22 flight risk. *Id.*

23 Petitioner states that after he was detained on June 12, 2025, as part of a widespread  
24 immigration enforcement action, he was briefly released on January 21, 2026 because an  
25 Immigration Judge terminated his case based on a violation of his constitutional rights. *Id.*  
26 ¶¶ 3, 23, 38. However, within forty-eight hours of his release, Petitioner was re-arrested  
27 and re-detained and now remains at the Imperial Regional Detention Center. *Id.* Petitioner  
28 states that his detention violates: (1) the TVPRA; (2) 8 U.S.C. § 1226(a); (3) the

1 Administrative Procedures Act; and (4) his procedural and substantive due process rights.  
 2 *Id.* at 20-21. Petitioner seeks a writ of habeas corpus directing Respondents to release him  
 3 from custody pursuant to the terms of his prior release from ORR custody, or in the  
 4 alternative, order an individualized bond hearing. *Id.* ¶ 18.

## 5 **II. LEGAL STANDARD**

6 A federal prisoner challenging the execution of his or her sentence, rather than the  
 7 legality of the sentence itself, may file a petition for writ of habeas corpus in the district of  
 8 his confinement pursuant to 28 U.S.C. § 2241. *See* 28 U.S.C. § 2241(a). The sole judicial  
 9 body able to review challenges to final orders of deportation, exclusion, or removal is the  
 10 court of appeals. *See generally* 8 U.S.C. § 1252; *see also Alvarez-Barajas v. Gonzales*,  
 11 418 F.3d 1050, 1052 (9th Cir. 2005) (citing REAL ID Act, Pub. L. No. 109-13, 119 Stat.  
 12 231, § 106(a)). However, for claims challenging ancillary or collateral issues arising  
 13 independently from the removal process—for example, a claim of indefinite detention—  
 14 federal habeas corpus jurisdiction remains in the district court. *Nadarajah v. Gonzales*,  
 15 443 F.3d 1069, 1076 (9th Cir. 2006), *abrogated on other grounds by Jennings v. Rodriguez*,  
 16 138 S. Ct. 830 (2018); *Alvarez v. Sessions*, 338 F. Supp. 3d 1042, 1048–49 (N.D. Cal.  
 17 2018) (citations omitted).

## 18 **III. DISCUSSION**

### 19 **A. Due Process**

20 Petitioner argues that because Respondents did not provide him with a pre-  
 21 deprivation hearing before re-detaining him, they violated his liberty interests. Pet. ¶¶ 46,  
 22 67, 76-86. The Court agrees.

23 The Fifth Amendment guarantees that “[n]o person shall be . . . deprived of life,  
 24 liberty, or property, without due process of law.” U.S. Const. amend. V. “[T]he Due  
 25 Process Clause applies to all ‘persons’ within the United States, including aliens, whether  
 26 their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533  
 27 U.S. 678, 693 (9th Cir. 2001). “[I]t is well established that the Fifth Amendment entitles  
 28 aliens to due process of law in deportation proceedings.” *Reno v. Flores*, 507 U.S. 292,

1 306 (1993). The Due Process Clause generally “requires some kind of a hearing before the  
 2 State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127  
 3 (1990). “Even individuals who face significant constraints on their liberty or over whose  
 4 liberty the government wields significant discretion retain a protected interest in their  
 5 liberty.” *Pinchi v. Noem*, No. 25-cv-5632-PCP, 2025 WL 2084921, at \*3 (N.D. Cal. July  
 6 25, 2025) (citations omitted). Although the initial decision to detain or release an individual  
 7 may be within the government’s discretion, “the government’s decision to release an  
 8 individual from custody creates ‘an implicit promise,’ upon which that individual may rely,  
 9 that their liberty ‘will be revoked only if [they] fail[] to live up to the . . . conditions [of  
 10 release].’” *Id.* (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). “Thus, even when  
 11 ICE has the initial discretion to detain or release a noncitizen pending removal proceedings,  
 12 after that individual is released from custody [he] has a protected liberty interest in  
 13 remaining out of custody.” *Pinchi*, 2025 WL 2084921, at \*3 (citing *Romero v. Kaiser*, No.  
 14 22-cv-20508, 2022 WL 1443250, at \*2 (N.D. Cal. May 6, 2022)).

15 Respondents in their Response acknowledge that in light of *Maldonado Bautista*,  
 16 Petitioner is detained under 8 U.S.C. § 1226(a) and is entitled to a bond hearing. *See*  
 17 Response at 2. However, the Court finds that the relief Petitioner is entitled to is not limited  
 18 to a bond hearing. Petitioner entered the United States as an unaccompanied minor, and at  
 19 that time was determined to not be a danger to the community or a flight risk and was  
 20 released. Pet. ¶ 44, 66, 67. Petitioner has complied with all conditions of his release and  
 21 has been a law-abiding citizen. *Id.* ¶ 30. Petitioner has been steadily employed and has  
 22 extensive ties in the United States including his sister who serves in the U.S. Army. *Id.* ¶  
 23 30. Accordingly, Petitioner has a protected liberty interest in remaining out of custody.  
 24 *See, e.g.*, *Pinchi*, 2025 WL 2084921, at \*4 (“[Petitioner’s] release from ICE custody after  
 25 her initial apprehension reflected a determination by the government that she was neither  
 26 a flight risk nor a danger to the community, and [Petitioner] has a strong interest in  
 27 remaining at liberty unless she no longer meets those criteria.”); *Noori*, 2025 WL 2800149,  
 28 at \*10 (“Petitioner is not an ‘arriving’ noncitizen but one that has [been] present in our

1 country for over a year. This substantial amount of time indicates he is afforded the Fifth  
 2 Amendment's guaranteed due process before removal."); *Matute v. Wofford*, No. 25-cv-  
 3 1206-KES-SKO (HC), 2025 WL 2817795, at \*5 (E.D. Cal. Oct. 3, 2025) (finding petitioner  
 4 had a protected liberty interest in his release).

5 As Petitioner has a protected liberty interest, the Due Process Clause requires  
 6 procedural protections before he can be deprived of that interest. *See Matthews v. Eldridge*,  
 7 424 U.S. 319, 335 (1976). To determine which procedures are constitutionally sufficient  
 8 to satisfy the Due Process Clause, the Court must apply the *Matthews* factors. *See*  
 9 *Matthews*, 424 U.S. at 335. Courts must consider: (1) "the private interest that will be  
 10 affected by the official action"; (2) "the risk of an erroneous deprivation of such interest  
 11 through the procedures used, and the probable value, if any, of additional or substitute  
 12 procedural safeguards"; and (3) "the [g]overnment's interest, including the function  
 13 involved and the fiscal and administrative burdens that the additional or substitute  
 14 procedural requirement would entail." *Id.*

15 The Court finds that all three factors support a finding that the government's  
 16 detention without a pre-deprivation hearing, reasoning, or an opportunity to be heard,  
 17 denied Petitioner of his due process rights. First, as discussed above, Petitioner has a  
 18 significant liberty interest in remaining out of custody. "Freedom from imprisonment—  
 19 from government custody, detention, or other forms of physical restraint—lies at the heart  
 20 of the liberty [the Due Process Clause] protects." *Zadvydas*, 533 U.S. at 690. Petitioner  
 21 has an interest in remaining with his community, working, and taking care of his family,  
 22 including his three United States citizen children. *See Morrissey*, 408 U.S. 471 at 482  
 23 ("Subject to the conditions of his parole, he can be gainfully employed and is free to be  
 24 with family and friends and to form the other enduring attachments of normal life.").

25 Second, the risk of an erroneous deprivation of such interest is high as Petitioner's  
 26 was re-detained without a pre-deprivation hearing. Pet. ¶¶ 44, 66, 67, 76-86. Since the  
 27 initial determination that Petitioner should be released because he posed no danger to the  
 28 community and was not a flight risk, there is no evidence that these findings have changed.

1 *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1760 (N.D. Cal. 2017) (“Release reflects a  
 2 determination by the government that the noncitizen is not a danger to the community or a  
 3 flight risk.”). As set forth herein, Petitioner has no criminal record, has not been arrested  
 4 or otherwise in criminal trouble, and has an established community. “Once a noncitizen  
 5 has been released, the law prohibits federal agents from rearresting him merely because he  
 6 is subject to removal proceedings.” *Saravia*, 280 F. Supp. 3d at 1760. “Rather, the federal  
 7 agents must be able to present evidence of materially changed circumstances—namely,  
 8 evidence that the noncitizen is in fact dangerous or has become a flight risk. . . .” *Id.*

9        Respondents, failing to address Petitioner’s Due Process argument in their response,  
 10 do not point to any material circumstances that have changed that would warrant his re-  
 11 detention. *See generally* Response. “Where, as here, ‘the petitioner has not received any  
 12 bond or custody hearing,’ ‘the risk of an erroneous deprivation of liberty is high’ because  
 13 neither the government nor [Petitioner] has had an opportunity to determine whether there  
 14 is any valid basis for [his] detention.” *Pinchi*, 2025 WL 2084921, at \*5 (quoting *Singh v.*  
 15 *Andrews*, No. 25-cv-801-KES-SKO (HC), 2025 WL 1918679, at \*7 (E.D. Cal. July 11,  
 16 2025)).

17        Third, the government’s interest in detaining Petitioner without notice, reasoning,  
 18 and a hearing is “low.” *See Pinchi*, 2025 WL 2084921, at \*5; *Matute*, 2025 WL 2817795,  
 19 at \*6; *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019) (“If the  
 20 government wishes to re-arrest [Petitioner] at any point, it has the power to take steps  
 21 toward doing so; but its interest in doing so without a hearing is low.”). Respondents fail  
 22 to point to any burdens on the government if it were to have provided proper notice,  
 23 reasoning, and a pre-deprivation hearing. *See generally* Response

24        Therefore, because Respondents re-detained Petitioner without a pre-deprivation  
 25 hearing in violation of the Due Process Clause, his detention is unlawful. *See, e.g., Alegria*  
 26 *Palma v. Larose et al.*, No. 25-cv-1942 BJC (MMP), slip op. at 14 (S.D. Cal. Aug. 11,  
 27 2025) (granting a TRO based on a procedural due process challenge to a revocation of  
 28 parole without a pre-deprivation hearing); *Navarro Sanchez*, 2025 WL 2770629, at \*5

1 (granting a writ of habeas corpus releasing petitioner from custody to the conditions of her  
 2 preexisting parole on due process grounds); *Quinteros Cornejo v. Andrews, et al.*, No. 1:25-  
 3 cv-02062 JLT HBK, 2026 WL 237748 (E.D. Cal. Jan. 29, 2026); *see also R.D.T.M. v.*  
 4 *Wofford*, No. 1:25-cv-01141-KES-SKO (HC), 2025 WL 268866 (E.D. Cal. Sept. 18,  
 5 2025).<sup>1</sup>

6 **IV. CONCLUSION**

7 Based on the foregoing, the Court **GRANTS IN PART** Petitioner's Petition for Writ  
 8 of Habeas Corpus (ECF No. 1), and **ORDERS** Respondents to immediately release  
 9 Petitioner from custody subject to the conditions of his preexisting release. The Court  
 10 **ORDERS**, prior to any re-detention of Petitioner, that Petitioner is entitled to notice of the  
 11 reasons for his re-detention and a hearing before a neutral decision maker to determine  
 12 whether detention is warranted. The government shall bear the burden of establishing, by  
 13 clear and convincing evidence, that Petitioner poses a danger to the community or a risk of  
 14 flight.<sup>2</sup>

15 **IT IS SO ORDERED.**

16 Dated: February 12, 2026



17  
 18 Honorable Linda Lopez  
 19 United States District Judge  
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24<sup>1</sup> The Court need not address Petitioner's remaining claims because the Petition can be  
 25 resolved on due process grounds.

26<sup>2</sup> This relief has been granted in similar matters. *See, e.g., Matute*, 2025 WL 2817795, at  
 27 \*8; *Pinchi*, 2025 WL 2084921, at \*5; *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1097 (E.D.  
 28 Cal. 2025); *Martinez Hernandez v. Andrews*, No. 25-CV-1035 JLT HBK, 2025 WL  
 2495767, at \*14 (E.D. Cal. Aug. 28, 2025).