

District Judge Tiffany M. Cartwright
Magistrate Judge Brian A. Tsuchida

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

JESUS BENTO CARDOZO, *et al.*,

Petitioners,

v.

CAMMILLA WAMSLEY¹, *et al.*,

Respondents.

Case No. 2:25-cv-00871-TMC-BAT

FEDERAL RESPONDENTS' RETURN
AND MOTION TO DISMISS

Noted for Consideration:
July 25, 2025

I. INTRODUCTION

Five separate Petitioners seek habeas relief from their mandatory immigration detentions. But U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioners for the duration of their removal proceedings pursuant to 8 U.S.C. § 1225(b). It is true that their individual removal proceedings have been delayed due to language barriers. These barriers have required the immigration court to spend a significant amount of time and resources to identify and locate appropriate interpreters for Petitioners, who speak different languages and/or dialects.

Due process requires that each Petitioner be able to meaningfully participate in their

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Federal Respondents substitute Cammilla Wamsley for Drew Bostock.

1 removal proceedings by having the proceedings translated into a language that they can
2 understand. The delays in Petitioners' removal proceedings have been caused by the
3 immigration court's obligation to protect Petitioners' due process rights; Petitioners now allege
4 that the immigration court's efforts to meet its obligations have violated Petitioners' due process
5 rights.² This Court should reject this paradox.

6 The immigration court has, after many attempts, identified interpreters who can
7 communicate with three of the five Petitioners: Boulhjar, Belhaj, and Khadaj. Their removal
8 proceedings have progressed from their master calendar hearings. In fact, Boulhjar has agreed to
9 voluntarily depart from the United States. The immigration court continues to diligently search
10 for appropriate interpreters for the remaining two Petitioners – Cardozo and Fernandes. Their
11 next court appearances are scheduled for June 30, 2025.

12 Petitioners have not demonstrated that their continued detentions without individualized
13 bond hearings would be unreasonable. As a result, this Court should deny their requests for
14 court-ordered bond hearings and dismiss the Petition for Writ of Habeas Corpus pursuant to 28
15 U.S.C. § 2241 in its entirety.

16 This Return is supported by the Declaration of Omar Carbajal ("Carbajal Decl."), the
17 Declaration of Parker Bell ("Bell Decl.") with exhibits, and the Declaration of Michelle R.
18 Lambert ("Lambert Decl.") with exhibits.

19 II. BACKGROUND

20 A. 8 U.S.C. § 1225(b)

21 Petitioners are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b). Aliens
22 who are apprehended shortly after illegally crossing the border and who are determined to be
23

24 ² While the Petition presents one due process claim for all five Petitioners, each Petitioner should be analyzed separately, as done in this Return.

1 inadmissible due to lacking a visa or valid entry documentation, 8 U.S.C. § 1182(a)(7)(A), may
 2 be removed pursuant to an expedited removal order unless they express an intention to apply for
 3 asylum or a fear of persecution in their home country. 8 U.S.C. § 1225(b)(1)(A)(i), (iii)(II). “The
 4 purpose of these provisions is to expedite the removal from the United States of aliens who
 5 indisputably have no authorization to be admitted to the United States, while providing an
 6 opportunity for such an alien who claims asylum to have the merits of his or her claim promptly
 7 assessed by officers with full professional training in adjudicating asylum claims.” H.R. Conf.
 8 Rep. No. 828, 104th Cong., 2d Sess. 209 (1996).

9 Applicants for admission fall into one of two categories. Section 1225(b)(1) covers
 10 aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid
 11 documentation, and certain other aliens designated by the Attorney General in her discretion.
 12 Separately, Section 1225(b)(2) serves as a catchall provision that applies to all applicants for
 13 admission not covered by Section 1225(b)(1) (with specific exceptions not relevant here). *See*
 14 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

15 Congress has determined that all aliens subject to Section 1225(b) are subject to
 16 mandatory detention. Regardless of whether an alien falls under Section 1225(b)(1) or (b)(2),
 17 the sole means of release is “temporary parole from § 1225(b) detention ‘for urgent humanitarian
 18 reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583 U.S. at 283.

19 **B. Petitioner Jesus Bento Cardozo**

20 Cardozo is a native and citizen of India who entered the United States without inspection
 21 through the Mexico – United States border on or about October 20, 2024. Bell Decl., ¶¶ 3-4;
 22 Lambert Decl., Ex. A, I-213. Shortly after entering the United States, Cardozo was apprehended
 23 and processed as an Expedited Removal (Lambert Decl., Ex. B, Notice and Order of Expedited
 24 Removal), but he was later issued a Notice to Appear in January 2025. Bell Decl., ¶ 5; Lambert

Decl., Ex. A. ICE transferred Cardozo to the NWIPC in November 2024. Bell Decl., ¶ 6. In a previous visa application, Cardozo certified that he speaks English, Hindi, and Konkani. Bell Decl., ¶ 7, Ex. 1.

Cardozo first appeared at the Tacoma Immigration Court on February 5, 2025. Carbajal Decl., ¶ 23. Since that time, the immigration court has repeatedly sought an available interpreter that can communicate with Cardozo and translate the master calendar hearing:

Appearance Date	Language of Interpreter Requested/Provided by the Immigration Court	Outcome
February 5, 2025	Konkani	- No interpreter available; - Case reset for interpreter
February 21, 2025	Konkani	- Cardozo stated that he spoke Konkani in the Goa dialect; - Cardozo could not understand the provided interpreter - Case reset for interpreter
March 18, 2025	Konkani and Hindi	- Cardozo could not understand the provided interpreter; - Case reset for interpreter
April 1, 2025	Hindi	- Cardozo could not understand the provided interpreter; - Case reset for interpreter
April 16, 2025	Goanese Konkani	- No interpreter available; - Case reset for interpreter
May 19, 2025	Goanese Konkani, Hindi, and Marathi	- Cardozo could not understand the provided interpreter; - Case reset for interpreter
June 11, 2025	Goanese Konkani	- No interpreter available; - Case reset to June 30, 2025

Carbajal Decl., ¶¶ 23-24, 26-30. Cardozo's master calendar hearing is now scheduled for June 30, 2025. *Id.*, ¶ 30.

C. Petitioner Relson Fernandes

Fernandes is a native and citizen of India who entered the United States without inspection on or about October 20, 2024. Bell Decl., ¶¶ 9-10; Lambert Decl., Ex. C, Form I-213.

1 Shortly after entering the United States, Fernandes was apprehended and processed as an
 2 Expedited Removal (Lambert Decl., Ex. D, Notice and Order of Expedited Removal), but he was
 3 later issued a Notice to Appear in January 2025. Bell Decl., ¶ 11. ICE transferred Fernandes to
 4 the NWIPC in November 2024. Bell Decl., ¶ 12. In prior visa documents, Fernandes has
 5 certified that he speaks English and Hindi and did not list Konkani as a language that he speaks.
 6 Bell Decl., ¶ 13, Ex. 2.

7 Fernandes first appeared at the Tacoma Immigration Court on February 5, 2025.
 8 Carbajal Decl., ¶ 23. Since that time, the immigration court has repeatedly sought an available
 9 interpreter that can communicate with Fernandes and translate the master calendar hearing:

Appearance Date	Language of Interpreter Requested/Provided by the Immigration Court	Outcome
February 5, 2025	Konkani	• No interpreter available; • Case reset for interpreter
February 21, 2025	Konkani	• Fernandes was not present because he was in quarantine; • Case reset
March 18, 2025	Konkani and Hindi	• Fernandes could not understand the provided interpreter; • Case reset for interpreter
April 1, 2025	Konkani	• Fernandes could not understand the provided interpreter; • Case reset for interpreter
April 16, 2025	Goanese Konkani	• No interpreter available; • Case reset for interpreter
May 19, 2025	Goanese Konkani, Hindi, and Marathi	• Fernandes could not understand the provided interpreter; • Case reset for interpreter
June 11, 2025	Goanese Konkani	• No interpreter available; • Case reset to June 30, 2025

22 Carbajal Decl., ¶¶ 23, 25-30. Fernandes's master calendar hearing is scheduled for June 30,
 23 2025. *Id.*, ¶ 30.

D. Petitioner Yassine Belhaj

Belhaj is a native and citizen of Morocco who entered the United States without inspection on or about September 15, 2024. Bell Decl., ¶¶ 15-16; Lambert Decl., Ex. E, I-213. Shortly after entering the United States, he was processed as an Expedited Removal (Lambert Decl., Ex. F, Notice and Order of Expedited Removal), but he was later issued a Notice to Appear in October 2024. Bell Decl., ¶ 17; Lambert Decl., Ex. G, Notice to Appear. ICE transferred Belhaj to the NWIPC in February 2025. Bell Decl., ¶ 18.

The Tacoma Immigration Court has repeatedly sought an available interpreter that can communicate with Belhaj and translate the master calendar hearing:

Appearance Date	Language of Interpreter Requested/Provided by the Immigration Court	Outcome
February 25, 2025	Konkani	- No interpreter available; - Case reset for interpreter
March 20, 2025	Hassaniya	- Belhaj stated that he spoke in the Tirjit dialect; - Belhaj could not understand the provided interpreter; - Case reset for interpreter
April 2, 2025	Konkani	- Belhaj could not understand the provided interpreter; - Case reset for interpreter
May 1, 2025	Tamazight	- Interpreter determined that Belhaj's best language is Hassaniya Tegeja; - Belhaj could not understand the provided interpreter; - Case reset for interpreter
May 12, 2025	Moroccan Arabic	- Belhaj stated that he was able to understand interpreter; - Belhaj stated that his best language is Hassaniya Tegeja; - Case reset for Belhaj to file application for relief from removal
June 2, 2025	Tamazight and Moroccan Dariga	Belhaj stated that he was able to understand interpreter;

		• Belhaj stated that his best language is Hassaniya Tegeja; • Case reset for hearing on Belhaj's application for relief from removal
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Carbajal Decl., ¶¶ 4-9.

A hearing on Belhaj's application for relief from removal has been set for August 11, 2025. Carbajal Decl., ¶ 9.

E. Petitioner Mouloud Ben Khadaj

Khadaj is a native and citizen of Morocco who entered the United States without inspection on or about September 15, 2024. Bell Decl., ¶¶ 32-33; Lambert Decl., Ex. H, Form I-213. Shortly after entering the United States, he was processed as an Expedited Removal (Lambert Decl., Ex. I, Notice and Order of Expedited Removal), but he was later issued a Notice to Appear in November 2024. Bell Decl., ¶ 34; Lambert Decl., Ex. J, Notice to Appear. ICE transferred Khadaj to the NWIPC in February 2025. Bell Decl., ¶ 35.

The Tacoma Immigration Court has repeatedly sought an available interpreter that can communicate with Khadaj and translate the master calendar hearing:

Appearance Date	Language of Interpreter Requested/Provided by the Immigration Court	Outcome
February 25, 2025	Konkani	• No interpreter available; • Case reset for interpreter
March 20, 2025	Konkani	• No interpreter available; • Case reset for interpreter
April 4, 2025	Hassaniya	• Khadaj stated that his best language is Tachelhit; • Khadaj could not understand the provided interpreter; • Case reset for interpreter
May 1, 2025	Tamazight	• Interpreter determined that Khadaj's best language is Tachelhit from the Atlas Mountains;

		• Khadaj could not understand the provided interpreter; • Case reset for interpreter
May 12, 2025	Moroccan Arabic	• Khadaj stated that his best language is Berber; • Khadaj could not understand the provided interpreter; • Case reset for interpreter
June 2, 2025	Berber/Tachelhit Moroccan and Moroccan Dariga	• Khadaj stated that he was able to understand interpreter in Berber/Tachelhit, but described it as a little harder; • Interpreter could understand Khadaj; • Case reset to allow Khadaj time to seek representation
June 2, 2025	Berber and Moroccan Arabic	• Khadaj stated that he was able to understand interpreter; • Interpreter could understand Khadaj; • Case reset to allow Khadaj time to seek representation and to complete an application for relief from removal

Carbajal Decl., ¶¶ 10-16.

On June 24, 2025, Khadaj appeared in immigration court. Bell Decl., ¶ 36. He provided the court with a letter from the Northwest Immigrant Rights Project (“NWIRP”), which asserts that Khadaj speaks a “Moroccan dialect of Tachelhit,” and that NWIRP is assisting Khadaj with completing applications for relief from removal. Bell Decl., ¶ 36, Ex. 4. The immigration judge (“IJ”) reset the case to July 9, 2025. Bell Decl., ¶ 36.

F. Petitioner Marouane Boulhjar

Boulhjar is a native and citizen of Morocco who entered the United States without inspection on or about August 29, 2024. Bell Decl., ¶¶ 20-21; Lambert Decl., Ex. K, Form I-213. Shortly after entering the United States, he was processed as an Expedited Removal

1 (Lambert Decl., Ex. L, Notice and Order of Expedited Removal), but he was later issued a
2 Notice to Appear in October 2024. Bell Decl., ¶ 22.

3 Boulhjar initially appeared in the Las Vegas Immigration Court on October 31, 2024.
4 See Bell Decl., ¶ 24. He claimed to not understand the Arabic interpreter and requested a
5 Moroccan Tamazight or Berber interpreter. Bell Decl., ¶ 24. No interpreter was available at
6 Boulhjar's next appearance on November 7, 2024. Bell Decl., ¶ 25. Then, Boulhjar claimed to
7 not understand the provided Berber interpreter at his appearance on November 19, 2024. Bell
8 Decl., ¶ 26. No interpreter was available at his next appearance on December 3, 2024. Bell
9 Decl., ¶ 27. On December 16, 2024, the IJ sua sponte terminated Boulhjar's immigration case
10 without prejudice over the Department of Homeland Security's ("DHS") objection. Bell Decl.,
11 ¶ 28; Lambert Decl., Ex. M, Order.

12 Boulhjar remained in DHS custody. Bell Decl., ¶ 29. ICE transferred Boulhjar to the
13 NWIPC in February 2025. *Id.*, ¶ 23. A new notice to appear was issued on March 8, 2025. Bell
14 Decl., ¶ 29; Lambert Decl., Ex. N, Notice to Appear.

15 After multiple appearances at the Tacoma Immigration Court, on June 2, 2025, an
16 interpreter speaking the Berber/Tachelhit Moroccan language and the Moroccan Dariga language
17 could understand Boulhjar; Boulhjar responded to the interpreter using the Berber/Tachelhit
18 language. Carbajal Decl., ¶ 21. The case was reset to June 24, 2025, to allow Boulhjar time to
19 seek representation. Carbajal Decl., ¶ 21.

20 On June 24, 2025, Boulhjar appeared before the immigration court. Bell Decl., ¶ 30. An
21 interpreter speaking the Berber/Tachelhit and Moroccan Arabic languages was present. Carbajal
22 Decl., ¶ 22. Through the interpreter, Boulhjar informed the court that he wished to return to
23 Morocco, waived representation, and waived filing any application for relief from removal. Bell
24 Decl., ¶ 30. The IJ granted him voluntary departure. *Id.*, Ex. 3, Order. All parties waived appeal

1 of this decision, rendering it a final administrative order. *Id.* Under the terms of the IJ's order,
2 Boulhjar has until July 24, 2025, to depart the United States. *Id.*

3 **III. ARGUMENT**

4 **A. Petitioners' continued detentions without court-ordered bond hearings are**
5 **constitutional.**

6 Petitioners have not shown that they are in immigration custody in violation of the
7 Constitution, law, or treaties of the United States. 28 U.S.C. § 2241. ICE lawfully detains them
8 pursuant to 8 U.S.C. § 1225(b), which mandates detention of arriving aliens seeking admission to
9 the United States. Individuals detained under Section 1225(b), including Petitioners, are not
10 entitled to an individualized bond hearing simply due to the passage of time.

11 The Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit on
12 the length of detention and whether such aliens detained under this statutory authority have a
13 statutory right to a bond hearing. *See Jennings*, 583 U.S. at 297-303. The Court rejected both
14 arguments, holding that Section 1225(b) mandates detention during the pendency of removal
15 proceedings and provides no entitlement to a bond hearing. *See id.*, at 303 ("Nothing in the
16 statutory text imposes any limit on the length of detention."). The Court further clarified that
17 Section 1225(b) detainees may be released only through discretionary parole under 8 U.S.C. §
18 1182(d)(5). *Id.*, at 300. While *Jennings* forecloses any statutory or categorical constitutional
19 right to a bond hearing under Section 1225(b), it did not reach the issue of whether prolonged
20 detention without such a hearing could, in individual cases, raise a due process concern.

21 Petitioners' continued detentions without court-ordered bond hearings do not violate their
22 Fifth Amendment due process rights. Courts in this District analyze this issue using a multi-
23 factor test. *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019). In
24 *Banda*, the district court found that the petitioner's 17-month immigration detention pursuant to

8 U.S.C. § 1225(b) had become unreasonable. *Id.*, at 1117-121. To conduct this analysis, the court analyzed six factors: (1) length of detention; (2) how long detention is likely to continue absent judicial intervention; (3) conditions of detention; (4) the nature and extent of any delays in the removal caused by the petitioner; (5) the nature and extent of any delays caused by the government; and (6) the likelihood that the final proceedings will culminate in a final order of removal. *See id.* Analysis of these factors demonstrates that Petitioners' detentions, while prolonged, have not become unreasonable.

First, the lengths of Petitioners' detention range from approximately eight months to ten months:

Petitioner	Date of Apprehension	Approximate Time in ICE Detention
Cardozo	October 20, 2024 (Lambert Decl., Ex. A)	8 months
Fernandes	October 20, 2024 (Lambert Decl., Ex. A)	8 months
Belhaj	September 15, 2024 (Lambert Decl., Ex. E)	8 months
Khadaaj	September 15, 2024 (Lambert Decl., Ex. E)	8 months
Boulhjar	August 29, 2024 (Lambert Decl., Ex. K)	10 months

While Federal Respondents acknowledge that Petitioners' detention periods have become prolonged, this Court should note that the current lengths of their detention have not reached the length of what many courts have found to be unreasonable. *See Hong v. Mayorkas*, No. 2:20-cv-1784, 2021 WL 8016749, at *5 (W.D. Wash. June 8, 2021), *report and recommendation adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11, 2022) (collecting cases finding prolonged detention from 13 months to 32 months without a court-ordered bond hearing to have become unreasonable); *see also* Pet., ¶ 97 (listing cases involving longer periods of detention). Therefore, at worst, this factor should be neutral.

1 Second, the length of future detention for Cardozo, Fernandez, Khadaj, and Belhaj cannot
2 be assessed at this time. The immigration court continues its significant efforts to obtain
3 appropriate interpreters to move forward with Cardozo and Fernandez's master calendar hearing.
4 After numerous appearance dates where interpreters of various languages have been made
5 available, their hearings have been reset for June 30, 2025, for the availability of a Goanese
6 Kokani interpreter. In contrast, Khadaj is in the process of preparing an application for relief
7 from removal with help of counsel after the immigration court successfully found an interpreter
8 who could communicate with Khadaj. Khadaj's next appearance is scheduled for July 9, 2025.
9 Likewise, Belhaj has filed an application for relief from removal, which is scheduled to be heard
10 by the immigration court on August 11, 2025. While Petitioners assert that their detention may
11 last a year or longer (Pet., ¶ 97), any assessment of the length of future detention for these four
12 petitioners would be speculative at best.

13 Boulhjar's case demonstrates this point. Although the immigration court had not found
14 the appropriate interpreter until recently, when Boulhjar could communicate with the
15 immigration court, the IJ granted Boulhjar's request for voluntary departure, which will end his
16 detention. Bell Decl., ¶ 30. Boulhjar is required to depart by July 24, 2025. Bell Decl., Ex. 3.
17 When he departs, his detention will end. Accordingly, the second *Banda* factor should be neutral
18 for Cardozo, Fernandez, Khadaj, and Belhaj; this factor should favor Federal Respondents for
19 Boulhjar as his detention will cease shortly.

20 As for the third *Banda* factor – conditions of detention, Petitioners are detained at the
21 NWIPC. While Petitioner allege that their conditions of confinement tip this factor in their favor
22 (Pet., ¶ 98), this Court cannot rely on the declarations submitted by Cardozo, Fernandes, and
23 Khadaj to assess their conditions at the NWIPC because these declarations do not show that the
24 translations were performed by competent translators. *Jack v. Trans World Airlines, Inc.*, 854 F.

1 Supp. 654, 659 (N.D. Cal. April 25, 1994) (citing Fed. R. Evid. 604 & 901). Each of the three
2 declarations include “certificates of translation.” See Dkt. Nos. 2, 3, 6. But the certificates
3 provide no credentials of the translators, or even whether the translators work for translation
4 services. Instead, the interpreters are described as “telephonic interpreters” in the purported
5 language. Compare Khadaj Decl. (“telephonic interpreter”) with Belhaj Decl. (providing name
6 of translation service). Without any way to test the accuracy of the translations, this Court
7 should not rely on the conditions of confinement allegations made by Cardozo, Fernandes, and
8 Khadaj in support of the third *Banda* factor. Pet., ¶ 98. Without these declarations, the Petition
9 only provides assertions of general conditions at NWIPC without any allegations specific to the
10 conditions experienced by Cardozo, Fernandes, and Khadaj. This limits any specific allegations
11 to Belhaj and Boulhjar. Except in relation to Belhaj and Boulhjar’s allegations, the third *Banda*
12 factor should be neutral.

13 The fourth *Banda* factor assesses delays caused by the petitioner. This factor should
14 favor Federal Respondents for Cardozo and Fernandes and be neutral for the remaining
15 Petitioners. As the *Banda* Court noted, “Courts should be sensitive to the possibility that dilatory
16 tactics by the removable alien may serve not only to put off the final day of deportation, but also
17 to compel a determination that the alien must be released because of the length of his
18 incarceration.” *Banda*, 385 F. Supp. 3d at 1119.

19 Here, Cardozo and Fernandes claimed during their immigration court appearances not to
20 understand interpreters certified in languages that they have previously claimed to speak on prior
21 visa applications. In his visa application, Cardozo certified that he speaks English, Konkani, and
22 Hindi. Bell Decl., Ex. 1. But he claimed not to understand the Hindi and Konkani interpreters
23 provided by the immigration court. Carbajal Decl., ¶¶ 26-27, 29. Likewise, Fernandes claimed
24 in his visa application that he spoke English and Hindi (Bell Decl., Ex. 2), but he now claims that

1 he does not understand Hindi at his court appearances. Carbajal Decl., ¶¶ 26-27, 29. Based on
2 their previous certifications in their visa applications, it is reasonable to believe that they have
3 some sort of proficiency in Hindi or even English, but they claimed to not understand the
4 interpreters at the hearings and their proceedings have been delayed.

5 Thus, the fourth *Banda* factor weighs in favor of Federal Respondents for Cardozo and
6 Fernandes; this factor should be neutral for Khadaj, Boulhjar, and Belhaj, as there is no indicia at
7 this time that they have previously claimed to speak the very language provided by interpreters
8 during their removal proceedings.

9 The fifth *Banda* factor, delays in the removal proceedings caused by the government,
10 should also favor Federal Respondents. There is no dispute that due process requires that aliens
11 must be able to participate meaningfully in their removal proceedings by having them translated
12 into a language that they can understand. *Hartooni v. I.N.S.*, 21 F.3d 336, 339-40 (9th Cir.
13 1994). Despite Petitioners' assertions otherwise (Pet., ¶ 101), the immigration court has
14 expended significant effort to protect Petitioners' due process rights to meaningfully participate
15 in their hearings. This is not a case where the petitioners have languished due to the inactivity of
16 the government.

17 Nor are the facts here equivalent to the facts in *Banda*. Pet., ¶ 104. In *Banda*, the
18 petitioner spoke Chichewa and required an interpreter for his removal proceedings. *Banda*, 385
19 F. Supp. 3d at 1109. Unlike here, in *Banda*, the petitioner identified his best language at his first
20 hearing and most of the continuances were due to the unavailability of an interpreter in that
21 language. *See id.* In contrast, many of the continuances in this case have been necessitated by
22 difficulties in identifying the appropriate interpreter due to communication issues rather than the
23 lack of interpreter availability. Without clear guidance from Petitioners, these delays should not
24 be attributed to the government.

Here, as Petitioners concede, each Petitioner has had numerous appearances where interpreters of various languages were provided. This pursuit to find a way to communicate with Petitioners should not be deemed a delay on the government's behalf. There is no doubt that circumstances have been difficult to pinpoint Petitioners' best languages or dialects. But the immigration court has been successful in finding interpreters who can communicate with most Petitioners; these cases have progressed since finding the appropriate interpreters. The immigration court continues to diligently work to provide appropriate interpreters for Cardozo and Fernandes. Based on the facts of these cases, this factor weighs strongly in favor of Federal Respondents because of the immigration court's significant actions to move Petitioners' removal proceedings forward.

The last *Banda* factor weighs the likelihood that removal proceedings will result in a final order of removal. Except for Boulhjar, who has agreed to voluntarily depart the United States within the next month, it is too early to assess this factor. Khadaj and Belhaj are in the process of applying for relief from removal. Cardozo and Fernandes have their master calendar hearings scheduled for the end of June. Thus, this Court should find this factor to be speculative.

In reviewing this balancing test, most of the *Banda* factors favor Federal Respondents or are neutral:

Petitioner	Factor 1	Factor 2	Factor 3	Factor 4	Factor 5	Factor 6
Cardozo	Neutral	Neutral	Neutral	Fed. Resp.	Fed. Resp.	Neutral
Fernandes	Neutral	Neutral	Neutral	Fed. Resp.	Fed. Resp.	Neutral
Belhaj	Neutral	Neutral	Pet.	Neutral	Fed. Resp.	Neutral
Khadaj	Neutral	Neutral	Neutral	Neutral	Fed. Resp.	Neutral
Boulhjar	Neutral	Fed. Resp.	Pet.	Neutral	Fed. Resp.	Fed. Resp.

Thus, Petitioners have not demonstrated that their separate, continued detentions without court-ordered bond hearings violate due process.

1 **B. Even if a writ is issued for any Petitioner, this Court should not grant all relief**
2 **sought in the Petition.**

3 The Petition seeks unwarranted relief even if Petitioners were to prevail. First, this Court
4 should deny Petitioners' requests for release from detention. Pet., ¶ 4. An alien is entitled to
5 release if he can show that his immigration detention is indefinite as defined in *Zadvydas v.*
6 *Davis*, 533 U.S. 678 (2001). *Hong*, 2021 WL 8016749, at *6. While Petitioners' detentions
7 have lasted more than eight months, none have alleged that their detention has become indefinite.
8 Nor have they provided a legal basis for any of their immediate releases from detention.

9 Second, Petitioners ask this Court to require consideration of the alternatives to detention
10 at Petitioners' court-ordered bond hearings. Prayer for Relief, ¶ b. This request is overbroad.
11 An alternative to detention analysis should not be required for any Petitioner that the IJ finds to
12 be a danger to the community. *See Martinez v. Clark*, 36 F.4th 1219, 1231 (9th Cir. 2022), *cert.*
13 *granted, judgment vacated*, 144 S. Ct. 1339 (2024) ("Due process does not require immigration
14 courts to consider conditional release when determining whether to continue to detain an alien
15 under § 1226(c) as a danger to the community.").

16 Third, in the alternative to an IJ presiding over the requested bond hearings, Petitioners
17 request that this Court hold the bond hearings. Pet., Prayer for Relief, ¶ c. If this Court does find
18 that any Petitioner is entitled to a court-ordered bond hearing, the bond hearing should be
19 conducted by an IJ. While this court may have the authority to conduct bond hearings, this Court
20 should decline to do so as "courts in this Circuit have regularly found that the IJ is the proper
21 authority to conduct bond hearings and determine a detainee's risk of flight or dangerousness to
22 the community." *Doe v. Becerra*, 697 F. Supp. 3d 937, 948 (N.D. Cal. 2023), *appeal dismissed*,
23 No. 24-332, 2025 WL 252476 (9th Cir. Jan. 15, 2025).

1 **IV. CONCLUSION**

2 This Court should find that Petitioners' continued detentions without court-ordered bond
3 hearings do not violate Due Process. Petitioners are lawfully detained pursuant to 8 U.S.C.
4 § 1225(b) and their detentions have not become unreasonable. Thus, this Court should deny
5 Petitioners' request for a writ of habeas corpus and dismiss the Petition in its entirety.

6 DATED this 27th day of June, 2025.

7 Respectfully submitted,

8 TEAL LUTHY MILLER
Acting United States Attorney

9 s/ Michelle R. Lambert
10 MICHELLE R. LAMBERT, NYS #4666657
Assistant United States Attorney
11 United States Attorney's Office
Western District of Washington
12 1201 Pacific Avenue, Suite 700
Tacoma, Washington 98402
13 Phone: (253) 428-3824
Fax: (253) 428-3826
14 Email: michelle.lambert@usdoj.gov

15 *Attorneys for Federal Respondents*

16 *I certify that this memorandum contains 4,481*
17 *words, in compliance with the Local Civil Rules.*