

District Judge David G. Estudillo
Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

A-C-J-,

Petitioner,

v.

Laura HERMOSILLO, et al.,

Respondents.

CASE NO. 2:25-cv-02486-DGE-MLP

**PETITIONER'S TRAVERSE AND
RESPONSE TO RESPONDENTS'
RETURN MEMORANDUM**

Noted for Consideration:
December 26, 2025

INTRODUCTION

On December 3, 2025, Respondents arbitrarily re-detained Ms. C-J- during "Operation Black Rose" and "targeted immigration enforcement operations" when she happened to be a passenger in a van stopped by Immigration and Customs Enforcement (ICE) during these operations. Dkt. 11-4 at 2. She was re-detained without a first being provided a hearing before a neutral decisionmaker to determine if she is now a flight risk and without considering the Trafficking Victims Protection Reauthorization Act's (TVPRA's) mandate that unaccompanied children who reach the age of 18 are detained in the least restrictive setting available. 8 U.S.C. § 1232(c)(2).

PETITIONER'S TRAVERSE & RESPONSE TO
RESPONDENTS' RETURN MEMORANDUM
PAGE - 1
(Case No. 2:25-cv-02486-DGE-MLP)

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1 Respondents attempt to justify detention after it occurred by issuing a document canceling
2 Ms. C-J-'s Order of Release on Recognizance (OREC) on December 4, 2025, and referencing two
3 alleged ICE check-in violations. Dkt. 11-5; Dkt. 12 at ¶¶ 13–14.

4 There are multiple procedural irregularities with the alleged check-in violations to the
5 extent they do not justify finding that Ms. C-J- is a risk of flight. *E.g.*, 6 U.S.C. § 279(b)(2)
6 (suggesting that Ms. C-J-'s Order of Release on Recognizance was unlawfully issued to begin with
7 as the Office of Refugee Resettlement (ORR) “shall not release such [unaccompanied] children
8 upon their own recognizance”); Dkt. 11-5 (cancelling release for failure to report on *June 24,*
9 *2021*); Dkt. 12 (alleged failure to report date of *June 4, 2021*); *Second Decl.* at ¶¶ 3–4 (Ms. C-J-
10 attesting that she never received a phone call to report to ICE, release paperwork provided her
11 uncle’s phone number, and she attempted to report to ICE ERO Eugene twice, but the office was
12 closed); Exh. B at 2 (ICE letter providing that April 2020 check-in excused), Exh. A at 2 (providing
13 April 2020 check in date was April 10, 2020, not April 20, 2020). These irregularities could have
14 been addressed pre-detention before a neutral decisionmaker. This goes to the heart of this
15 petition: Due process demands that Respondents afford Ms. C-J- meaningful process *before* re-
16 detention, not unilateral reliance on the word of the “government enforcement agent.” *Coolidge v.*
17 *New Hampshire*, 403 U.S. 443, 450 (1971).

18 Respondents provide no meaningful challenge to Ms. C-J-'s due process claim.

19 Respondents’ statements of law regarding expedited removal, mandatory detention, parole,
20 and revocation of discretionary release are both inapplicable, because Ms. C-J- entered as an
21 unaccompanied minor, and irrelevant given the uncontested due process violation.

RESPONSIVE STATEMENT OF FACTS

Ms. C-J- agrees with the Respondents' background recitation of facts related to her removal proceedings, unaccompanied minor, status, and asylum application pending with United States Citizenship and Immigration Services (USCIS). Dkt. 10 at 5–6.

However, Ms. C-J-'s and Respondents' view of the facts diverge as they relate to her arrest and violation of the OREC.

Respondents state that on “December 3, 2025, ICE ERO located and detained Petitioner based on her being a citizen of Guatemala who was not in possession of immigration documents which would permit her to remain in the United States.” Dkt. 10 at 6. However, Ms. C-J-'s location and arrest was not because of probable cause that she was a non-citizen not in possession of immigration documents to remain in the United States, but rather a collateral and arbitrary arrest when ICE targeted her work carpool van. Dkt. 9 at ¶ 4–6.

Ms. C-J- was placed on an OREC at age 14. Exh. A at 2. Her uncle's contact information, rather than her own was provided. *Second Decl.* at ¶ 4. The OREC notes that “Sponsor is responsible for all care and concerns.” Exh. A at 2.

Ms. C-J- disagrees with Respondents statement that “on April 20, 2020, and again on June 4, 2021” she failed to report to check-in appointments with ICE.¹ Dkt. 10 at 6. The April 20, 2020 date was at the very beginning of the Covid-19 pandemic. Ms. C-J-'s OREC document states that she was to report on April 10, 2020. Exh. A at 2. She did report despite Covid-19 restrictions on July 9, 2020 at which point an April 8, 2020 check in date was excused. Exh. B at 2. She was

¹ Ms. C-J- also disagrees with Deportation Officer Rita Soraghan's statement that on “April 12, 2017, Petitioner reported late to a required ERO check in.” Dkt. 12 at ¶ 10. Her “Personal Report Record” provides that she reported on April 12, 2017 and lacks a “late” designation. Exh. A at 2.

1 given contradictory reporting requirements for her next check-in: either on September 10, 2020,
2 Exh. B at 1, or October 8, 2020, Exh. A at 2. She tried to check in at her next check in date, but
3 the ICE office was closed. *Second Decl.* at ¶ 3. She tried again a week later, and the office was
4 still closed. *Id.*; *see also* Exh. C at 2 (sign at ICE ERO from August 2020 noting building closure).

5 Regarding the June 4, 2021 (or June 24, 2021) check-in date, Ms. C-J- had no written notice
6 of that date. Dkt. 11-5. She does not recall receiving a phone call instructing her to report in June
7 2021. *Second Decl.* at ¶ 4. The phone number on her check-in paperwork was that of her sponsor,
8 her uncle. *Id.* She did not receive a call from her uncle advising her of an ICE check-in date. *Id.*
9 ICE records are internally inconsistent as to the required check-in date. Detention Officer
10 Soraghan provides a June 4, 2021 check-in date. Dkt. 12 at ¶ 14. The Cancellation of Form I-
11 220A Letter provides a June 24, 2021 check-in date. Dkt. 11-5.

12 On balance, Respondents' evidence confirms that Ms. C-J- was not provided any prior
13 notice of her re-detention and that there are multiple procedural irregularities with their purported
14 notice to her that she needed to report to ICE in June 2021.

15 **ARGUMENT**

16 **A. Ms. C-J- has a due process right to a pre-deprivation hearing under the *Mathews*** 17 **balancing factors, an argument Respondents fail to contest.**

18 As Respondents have made no argument that procedural due process does not apply nor
19 that Ms. C-J- was not entitled to a pre-deprivation hearing to effectuate her procedural due process
20 rights, the Court should grant this petition on this undisputed basis.

21 Such a finding is well supported by the Constitution, this Court's case law, the facts of Ms.
22 C-J's case.

1 As found by this Court, and courts around the country, due process requires notice prior to
2 re-detention in circumstances like that of Ms. C-J-, who has previously been detained by DHS and
3 then released and living in the United States for over nine years. *See, e.g., E.A. T.-B. v. Wamsley*,
4 No. C25-1192-KKE, ___F.Supp.3d___, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025) (granting
5 habeas petition, ordering immediate release due to lack of pre-deprivation hearing, and requiring
6 adequate notice and an immigration court hearing prior to any future re detention); *Ledesma*
7 *Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *9 (W.D. Wash. Oct.
8 7, 2025) (same); *Hernandez v. Wofford*, No. 1:25-CV-00986-KESCDB (HC), 2025 WL 2420390,
9 at *8 (E.D. Cal. Aug. 21, 2025) (same); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025
10 WL 2677089, at *3 (W.D. Wash. Sept. 17, 2025) (granting temporary protective order and
11 ordering immediate release due to lack of pre-deprivation hearing); *Francois v. Wamsley*, No.
12 C1:25-cv-02122-RSM-GJL, 2025 WL 3063251, at *5–6 (W.D. Wash. Nov. 3, 2025) (same);
13 *Garro Pinchi v. Noem*, No. 5:25-CV-05632-PCP, --- F. Supp. 3d ---, 2025 WL 2084921, at *7
14 (N.D. Cal. July 24, 2025) (granting preliminary injunction and ordering that petitioner not be re-
15 detained without a pre-deprivation hearing before a neutral immigration judge where the
16 government must demonstrate by clear and convincing evidence that she is a flight risk or danger
17 to the community); *Duong v. Kaiser*, No. 25-CV-07598-JST, ___F.Supp.3d___, 2025 WL
18 2689266, at *7 (N.D. Cal. Sept. 19, 2025) (same); *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-
19 LJV, ___F.Supp.3d___, 2025 WL 1953796, at *16–18 (W.D.N.Y. July 16, 2025) (granting
20 preliminary injunction, ordering release due to lack of pre-deprivation process, and ordering
21 noncitizen not be re-detained without a “meaningful opportunity to be heard”); *Garcia v. Andrews*,
22 No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *9–10, 11–13 (E.D. Cal. Aug. 21, 2025)

1 (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376, at *10 (E.D. Cal.
2 Aug. 8, 2025) (similar).

3 As in these cases, procedural due process required notice to Ms. C-J- *prior to* re-detention
4 regardless of whether the Respondents' cited statutory and regulatory authority for her re-detention
5 apply. *See infra* § 2; *see, e.g., P.T. v. Hermosillo*, No. C25-2249-KKE, 2025 WL 3294988, at *2
6 n. 1 (W.D. Wash. Nov. 26, 2025) ("To the extent that the Government's briefing suggests that
7 Section 1225(b) should be the beginning and end of the Court's inquiry, this position is
8 emphatically rejected. In determining the lawfulness of Petitioner's detention, the Court will focus
9 not on the Government's claimed authority to detain, but the process by which Petitioner was
10 detained").

11 "[T]he Due Process Clause applies to all 'persons' within the United States, including [non-
12 citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydus v.*
13 *Davis*, 533 U.S. 678, 693 (2001); *see also Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir.
14 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the
15 requirements of due process").

16 "Procedural due process imposes constraints on governmental decisions which deprive
17 individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the
18 Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "The
19 fundamental requirement of due process is the opportunity to be heard at a meaningful time and in
20 a meaningful manner." *Id.* at 333. "Due process, unlike some legal rules, is not a technical
21 conception with a fixed content unrelated to time, place and circumstances. Due process is flexible
22 and calls for such procedural protections as the particular situation demands." *Id.* at 334.

1 To determine what procedural protections due process requires, courts balance three
2 factors: “(1) the private interest affected; (2) the risk of erroneous deprivation through the
3 procedures used, and the value of additional safeguards; and (3) the government’s interest,
4 including the burdens of additional procedural requirements.” *Shinault v. Hawks*, 782 F.3d 1053,
5 1057 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 335).

6 **1. Private interests affected: Ms. C-J-’s liberty interest in remaining free
7 from physical restraint.**

8 Ms. C-J- has a strong liberty interest in remaining free from physical restraint and avoiding
9 wrongful removal.

10 “[F]reedom from imprisonment — from government custody, detention, or other forms of
11 physical restraint — lies at the heart of the liberty that the [due process clause] protects.” *Zadvydas*,
12 533 U.S. at 690. Therefore, individuals conditionally released from detention have a protected
13 interest in their “continued liberty.” *See Young v. Harper*, 520 U.S. 143, 147, 149, 152–53 (1997).

14 When Ms. C-J- was initially released from ORR custody, she acquired a liberty interest
15 entitled to the protections of the Due Process Clause. *See Doe v. Becerra*, 787 F.Supp.3d 1083,
16 1093 (E.D. Cal. Mar. 3, 2025) (“The Supreme Court has repeatedly recognized that individuals
17 who have been released from custody, even where such release is conditional, have a liberty
18 interest in their continued liberty.”) (citing, *e.g.*, *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)
19 (finding a parolee had an interest in his continued liberty)).

20 Since release, Ms. C-J- reasonably relied on her liberty interest by enrolling in school,
21 applying for asylum, applying for and receiving work authorization, getting married, and giving
22 birth to two U.S. Citizen children, now ages 3 years old and 9 months. Dkt. 9 at ¶¶ 2, 6, 13. Aside

1 from one speeding ticket, she has no criminal arrests or convictions. Dkt. 9 at ¶ 12. Ms. C-J-'s
2 liberty interest is therefore strong and weighs heavily in support of her release.

3 **2. Risk of erroneous deprivation: The risk of erroneously detaining Ms.**
4 **C-J- without a pre-deprivation hearing and opportunity to respond is**
5 **very high.**

6 This Court should weigh the risk of erroneously depriving Ms. C-J- of her freedom from
7 detention through the procedures currently used (arbitrary detention and factually erroneous post
8 detainment justification for detention), and the value of additional safeguards (release revocation
9 hearing before a neutral decisionmaker *prior to* re-detention). *Mathews*, 424 U.S. at 335.

10 This Court has found that “the risk of erroneous deprivation of [Petitioner’s] liberty interest
11 in the absence of a pre-detention hearing is high.” *E.g., E.A. T.B.*, 2025 WL 2402130, at *4.
12 Although, as here, “the Government may believe it has a valid reason to detain Petitioner,” Dkt.
13 11-5, that belief “does not eliminate its obligation to effectuate the detention in a manner that
14 comports with due process.” *E.A. T.-B.*, 2025 WL 2402130, at *4. Ms. C-J-'s re-detention must
15 “bear[] [a] reasonable relation” to a valid government purpose: here, preventing flight or protecting
16 the community against dangerous individuals. *Zadvvydas*, 533 U.S. at 690 (quoting *Jackson v.*
17 *Indiana*, 406 U.S. 715, 738 (1972)); *see also, e.g., Hernandez*, 872 F.3d at 990 (“The government
18 has legitimate interests in protecting the public and in ensuring that noncitizens in removal
19 proceedings appear for hearings, but any detention incidental to removal must bear a reasonable
20 relation to its purpose.” (citation modified)). Only a hearing before a neutral decisionmaker —
21 where DHS must prove that re-detention is justified because Ms. C-J- poses a flight risk or danger
22 — can ensure that this “reasonable relation” to a valid government purpose exists.

23 Here, Respondents did not provide a hearing before a neutral decisionmaker where they
24 were required to show that Ms. C-J- violated the conditions of release and is now a flight risk or

1 danger. *E.g.*, Dkt. No. 11-5 (Cancellation for Form I-220A issued one day *after* Ms. C-J-'s arrest);
2 Dkt. 9 at ¶ 6 (Ms. C-J- stating that upon arrest "the officers did not ask me any questions"). The
3 Supreme Court has repeatedly explained that an individual is not afforded due process where it is
4 simply the "government enforcement agent" who makes the decision about the propriety of
5 detention. *Coolidge*, 403 U.S. at 450.

6 Rather no decision about the propriety of re-detention was made prior to Ms. C-J-'s arrest
7 as she was arrested arbitrarily. She was arrested on her way to work on her third day back at work
8 after taking time off to care for her 9-month-old son. Dkt. 9 at ¶¶ 4-6. At the time of arrest, ICE
9 initially asked Ms. C-J- no questions. Dkt. 9 at ¶ 6. She was apparently detained because ICE was
10 conducting "Operation Black Rose" and "targeted immigration enforcement operations" and she
11 happened to be a passenger in a van stopped by ICE during these operations. Dkt. 11-4 at 2.

12 Further, Respondents provided no meaningful, advance notice that would have allowed
13 Ms. C-J- to contest re-detention, essential here, where she has numerous arguments to counter
14 ICE's post-detention flight risk determination. The parties agree that Ms. C-J- was arrested on
15 December 3, 2025. Dkt. 10 at 6. It was not until December 4, 2025 that ICE retroactively
16 determined that Ms. C-J- failed to check in on June 24, 2021. Dkt. No. 11-5 at 2. Had Ms. C-J-
17 been provided with this information prior to re-detention she could have made multiple arguments
18 that the alleged failure to report on June 24, 2021 cannot justify re-detention as follows.

19 First, ICE records are inconsistent as to the specific date of the missed check-in. Dkt. 11-
20 5 ("Eugene, OR Deportation Officer contacted C-J- by phone and told her next report date *was*

1 6/24/21”); Dkt. 12 at ¶ 14 (Deportation Officer Soraghan stating “*On June 4, 2021*, Petitioner
2 failed to report for an ERO check in”).²

3 Second, ICE states that an unnamed Deportation Officer contacted Ms. C-J- by phone to
4 advise her of the June 24, 2021 check-in. Dkt. 11-5. Ms. C-J- recalls no such phone call, and
5 instead, the phone number ICE had on file was that of her uncle. *Second Decl.* at ¶ 4. She also
6 did not receive notice from her uncle of a June 2021 report date. *Id.*

7 Third, the alleged missed report dates in April 2020 and June 2021 were during the Covid-
8 19 pandemic when the Eugene ERO office’s operations were greatly impacted, the physical office
9 was closed intermittently, and completing a check-in with that office were extremely difficult.
10 Exh. C. Ms. C-J- twice tried to check in with Eugene ERO, but the office was closed. *Second Decl.*
11 at ¶ 3.

12 Fourth, as an unaccompanied minor, Ms. C-J- should not have been required to report
13 pursuant to an OREC. The Office of Refugee Resettlement (ORR) of Department of Health and
14 Human Services (HSS) rather than ICE and DHS is responsible for the custody and release of
15 unaccompanied minors, like Ms. C-J-. 6 U.S.C. §279(g). Such releases are governed by the
16 TVPRA. 8 U.S.C. § 1232(c)(2). The TVPRA mandates that ORR “shall not release
17 [unaccompanied noncitizen] children upon their own recognizance.” 6 U.S.C. § 279(b)(2). That
18 DHS placed Ms. C-J- on an OREC at age 14 was unlawful and cannot support a flight risk finding.

19
20 _____
21 ² Similar concerns exist with the alleged missed report date of April 20, 2020. This date
22 was at the very beginning of the Covid-19 pandemic. Deportation Officer Soraghan states that the
23 relevant missed date is April 20, 2020. Dkt. 12 at ¶ 13. Form I-220A provided a different date of
24 April 10, 2020 and shows that Ms. C-J- did again report on July 9, 2020. Exh. A at 2. Form I-
25 220A further conflicts with Officer Soraghan’s statement that “on April 12, 2017, Petitioner
26 reported late to a required ERO check-in.” Exh. A at 2. An ICE ERO letter further excused any
failure to report in April 2020 given the pandemic. Exh. B.

1 On its face, the OREC placed reporting responsibilities on Ms. C-J-'s uncle, not Ms. C-J-. Exh. A
2 at 2 ("sponsor is responsible for all care and concerns"). Should DHS have desired to monitor Ms.
3 C-J- it could have done so by issuing her, and not her uncle, an OREC once she turned 18. 8
4 U.S.C. § 1232(c)(2)(A) (governing release and supervision requirements of unaccompanied
5 minors who turn 18). It failed to do so.

6 Fifth, the TVPRA provides that if an unaccompanied child reaches the age of 18 and is
7 transferred to the custody of DHS, then DHS "*shall* consider placement in the least restrictive
8 setting available after taking into account the [non-citizen's] danger to self, danger to the
9 community, and risk of flight. Such [non-citizens] shall be eligible to participate in alternative to
10 detention programs, utilizing a continuum of alternatives based on the [non-citizen's] need for
11 supervision, which may include placement of the [non-citizen] with an individual or an
12 organizational sponsor, or in a supervised group home." 8 U.S.C. § 1232(c)(2)(B). Re-detention
13 of Ms. C-J- at the Northwest Detention Center is not the least restrictive setting of detention nor
14 does it effectuate her right to alternatives to detention as required by the TVPRA.

15 Sixth, further mitigating Ms. C-J-'s risk of flight is that she has never missed a court hearing
16 in her immigration court case. She has work authorization in the United States. Dkt. 9 at ¶ 6. Her
17 immigration court case was administratively closed from 2017 until August 2025 while she
18 awaited her asylum hearing with USCIS. Dkt. 10 at 6.

19 Seventh, Ms. C-J-, who faced domestic violence and threats of rape in Guatemala, has
20 diligently pursued her right to seek asylum, filing her asylum application within 1 year of arrival
21 to the United States. Dkt. 12 at ¶¶ 4, 8. As an unaccompanied child, exclusive jurisdiction over
22 her asylum application rests with USCIS, not the immigration court. 8 U.S.C. § 1158(b)(3)(C).
23 Thus a decision cannot be reached in her re-calendared removal proceedings until USCIS decides

1 her asylum application. USCIS is not currently deciding asylum applications. USCIS, *Policy*
2 *Memorandum* (Dec. 2, 2025) available at [https://www.uscis.gov/sites/default/files/document/](https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf)
3 [policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf](https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf). This leaves
4 Ms. C-J- in an impossible position of facing indefinite or at least uncertain detention until USCIS
5 resumes adjudication of asylum applications. Ms. C-J- has been scheduled for an asylum interview
6 on January 14, 2025. However, it appears the results of that interview are predetermined to be
7 limited to denial and referral of her case to the immigration court or indefinite delay to await
8 USCIS to resume processing asylum applications.

9 Thus, the likelihood of erroneous deprivation is high in Ms. C-J's case. *See Doe*, 787
10 F.Supp.3d at 1094 (“[G]iven that Petitioner was previously found to not be a danger or risk of
11 flight . . . the risk of erroneous deprivation remains high”).

12 **3. The Government's interest in re-detaining Ms. C-J- without notice and**
13 **an opportunity to respond is minimal.**

14 Courts assessing the legality of re-detention without a pre-deprivation hearing before a
15 neutral decisionmaker have recently found that “the Government's interest in re-detaining non-
16 citizens previously released without a hearing is low: although it would have required the
17 expenditure of finite resources (money and time)” to provide a pre-deprivation hearing, “those
18 costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.” *E.A.*
19 *T.-B.*, 2025 WL 2402130, at *5; *Ledesma Gonzalez*, 2025 WL 2841574, at *8 (concluding
20 government interest to be low even assuming “requiring pre-detention process would present some
21 administrative burden”); *Garro Pinchi*, 2025 WL 2084921, at *6 (“[I]t is likely that the cost to the
22 government of detaining [petitioner] pending any bond hearing would significantly exceed the cost
23 of providing her with a pre-detention hearing”).

1 “Society’s interest lies on the side of affording fair procedures to all persons, even though
2 the expenditure of governmental funds is required.” *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th
3 Cir. 1983); *see also Morrissey*, 408 U.S. at 484. This consideration thus also “cuts strongly in
4 favor” of Ms. C-J-.

5 **B. Expediated removal proceedings, mandatory detention, and temporary parole**
6 **procedures do not apply to Ms. C-J-, who was designated an unaccompanied**
7 **child.**

8 Respondents discuss expedited removal proceedings, mandatory detention,³ and temporary
9 parole. Those statutes and related case law are not relevant here 1) because as described above a
10 pre re-detainment hearing before a neutral decisionmaker is a constitutional due process
11 requirement applicable regardless of the statute of detention, and 2) none of those statutes apply
12 in Ms. C-J’s case, who entered the United States as an unaccompanied child.

13 First, the statutory basis for detention does not override the constitutional requirement that
14 Ms. C-J’s re-detention comport with procedural due process. *See, e.g., Francois*, 2025 WL
15 3063251, at *3 (“Any argument that ICE acted within its [statutory] authority has no [e]ffect on a
16 claim contending that detention violates Constitutional Due Process”).

17 Second, while the parties agree that Ms. C-J- entered the United States as an
18 unaccompanied minor, they diverge as to what law applies to unaccompanied minors. Dkt. 10 at
19 5; Dkt. 8 at ¶¶ 24–25.

20 ³ To the extent that Respondents suggest that all non-citizens apprehended close in time to
21 their arrival are subject to mandatory detention and subject to 1225(b), this Court has consistently
22 rejected that position. *E.g., P.T.*, 2025 WL 3294988, at *2 n. 1 (rejecting government’s argument
23 that petitioner apprehended on arrival “falls within the mandatory detention scheme under 8 U.S.C.
24 § 1225(b) simply because he has not been ‘admitted’ to the United States”) (*citing Rodriguez v.*
25 *Bostock*, __ F. Supp. 3d __, 2025 WL 2782499, at *5, 24 (W.D. Wash. Sep. 30, 2025) (rejecting
26 government’s argument that § 1225(b) applies to every applicant for admission)).

1 Expedited removal proceedings do not apply to unaccompanied minors, rather as Ms. C-J-
2 was here, such unaccompanied children must be “placed in removal proceedings under section 240
3 of the Immigration and Nationality Act.” 8 U.S.C. 1232(a)(5)(D)(i); Dkt. 12 at ¶ 5. Even though
4 she is now over 18 years old, Ms. C-J- still cannot be subject to expedited removal because her
5 INA § 240 proceedings remain ongoing. *See* 8 C.F.R § 1003.14(a)-(b) (vesting sole jurisdiction
6 with the immigration judge upon filing a charging document with the immigration court). Because
7 of the prohibition on placing unaccompanied minors in expedited removal proceedings, the
8 expedited removal procedures described by Respondents never applied to Ms. C-J-. Dkt. 10 at 2–
9 3.

10 Unaccompanied children are not subject to mandatory detention as Respondents suggest.
11 Instead, the detention provisions as set out in the TVPRA apply requiring ORR to “promptly”
12 place an unaccompanied child “in the least restrictive setting that is in the best interest of the child.”
13 8 U.S.C. § 1232(c)(2)(A). And, upon age 18, DHS must consider “placement in the least restrictive
14 setting available after taking into account the [non-citizen’s] danger to self, danger to the
15 community, and risk of flight” and consider “alternatives to detention.” 8 U.S.C. § 1232(c)(2)(B);
16 *Torres v. Wamsley*, No. C25-5772 TSZ, 2025 WL 2855379, at *3–5 (W.D. Wash. Oct. 8, 2025).

17 The detention provisions referenced by Respondents are therefore inapplicable to Ms. C-
18 J-. Rather, in addition to the constitutional due process requirement set out above, DHS was
19 required to consider placement in the least restrictive setting and consider alternatives to detention.
20 8 U.S.C. § 1232(c)(2)(B).

21 ///

22 ///

23 ///

CONCLUSION

For these reasons, Ms. C-J-'s detention violates her procedural due process rights. She respectfully requests the Court grant this habeas petition, order immediate release from detention, and require a hearing before a neutral decisionmaker prior to any future re-detention.

Dated: December 23, 2025

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WORD COUNT CERTIFICATION

Pursuant to Local Civil Rule 7, I certify that the forgoing response has 4,189 words and complies with the word limit requirements of Local Civil Rule 7(e).

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