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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

EMILIO GAEL PEREZ BUENO,  
Petitioner,  
v.  
JAMES JANECKA, et al.,  
Respondents.

No. 5:25-cv-03376-CAS-BFM

**REPORT AND  
RECOMMENDATION OF  
UNITED STATES  
MAGISTRATE JUDGE**

This Report and Recommendation is submitted to the Honorable Christina A. Synder, Senior United States District Judge, pursuant to 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California.

For the reasons stated below, the Court recommends that the Petition be **granted**.

**FACTUAL BACKGROUND**

Petitioner Emilio Gael Perez Bueno is a noncitizen who is currently detained in the Adelanto Detention Facility, within the Central District of California. He entered the United States without inspection in March 2024, along with his sister and his parents, and was apprehended shortly thereafter and placed in removal proceedings. (ECF 1 (“Pet.”) ¶ 15; Pet. Ex. C.) On March

1 15, 2024, he was released on his own recognizance under Section 236 of the  
2 Immigration and Nationality Act. (ECF 6 (“Answer”) Ex. 1.) His release was  
3 subject to minimal conditions, including that he was required to report in  
4 regularly with a detention officer. (Answer Ex. 1.)

5 On November 14, 2025, Perez Bueno appeared for his check-in at the ICE  
6 office in San Bernardino County and was taken into custody. (Pet. Ex. A.) The  
7 officer told Perez Bueno that he had failed to check in through the “app” and  
8 that being taken back into custody was his punishment. (Pet. Ex. A.) According  
9 to Respondents, Perez Bueno committed sixteen violations of the conditions of  
10 his release between June 2024 and July 2025: according to Respondents’  
11 records, Perez Bueno “missed biometric check-in” ten times; five times, the  
12 location information for his check-in was missing; and once, in July 2025, he  
13 missed an in-person check-in. (Answer Ex. 2.)

14 Perez Bueno supplied a declaration indicating that he used a mobile app  
15 called “BI SMART” to check-in with his officer between in-person visits. The app  
16 would send him weekly notifications to send a picture of his face, and the  
17 location function of the app would show, apparently, that he was still where he  
18 was supposed to be. (ECF 7 (“Traverse”) at 12) The app was glitchy, though, and  
19 the notification would sometimes arrive late or not at all, or would not transmit  
20 location information. Perez Bueno states under penalty of perjury that  
21 whenever he became aware of such issues, he would communicate with the  
22 officer handling his case and that the officer acknowledged that there were  
23 issues with the app that affected others on his caseload as well. (Traverse at 12.)  
24 On those occasions, the officer would tell him to snap a picture and send it, even  
25 if it was outside the usual schedule. (Traverse at 12.) Perez Bueno states, again  
26 under penalty of perjury, that he is not aware, and has never been made aware,  
27 that he missed any in-person visits. (Traverse at 12.) Perez Bueno’s mother  
28 likewise confirms that her son has had issues with the app, that he

1 communicated with his officer whenever he was aware of problems, and that  
2 she accompanied her son to each of his in-person appointments. (Traverse at  
3 14.)

4 Perez Bueno avers (Traverse at 2), and Respondents do not appear to  
5 dispute, that he has not had a bond hearing or any other hearing concerning his  
6 detention since he was taken back into custody.

7 Perez Bueno filed this Petition in December 2025. He alleges that his  
8 detention violates his substantive due process rights, because he is detained  
9 even though he is neither a flight risk nor a danger. (Pet. at 20.) He claims that  
10 his procedural due process rights were also violated, because he was taken back  
11 into custody without being provided a pre-deprivation hearing. (Pet. at 21.)  
12 Finally, he argues that he is at least entitled to a bond hearing in custody, as he  
13 is a noncitizen who is present without being admitted or paroled. (Pet. at 23.)  
14 He asks for an order of immediate release, on the grounds that his continued  
15 detention violates his constitutional rights, and an order that he not be taken  
16 back into custody without a pre-detention hearing before a neutral  
17 decisionmaker. (Pet. at 26.)

18 Respondents argue that Perez Bueno was not entitled to a hearing before  
19 he was taken into custody, and that the violations of his bond conditions justify  
20 his current detention. (Answer at 5-6.) They do not dispute, however, that he is  
21 entitled to a bond hearing in custody under the reasoning of *Maldonado*  
22 *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D.  
23 Cal. Nov. 25, 2025). (Answer at 6-7.)

24 The matter is now fully briefed and ready for decision.

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### ANALYSIS

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The Court begins with Perez Bueno's procedural due process claim, as success on that claim would offer him the most significant relief—an order for

1 release from custody. For the reasons that follow, the Court concludes that Perez  
2 Bueno’s detention violates due process, and thus recommends that the District  
3 Judge enter an order that he be released and that he not be re-detained without  
4 a pre-deprivation hearing.

5 **A. Procedural Due Process**

6 “Freedom from imprisonment—from government custody, detention, or  
7 other forms of physical restraint—lies at the heart of the liberty [the Due  
8 Process Clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The  
9 protection afforded by the Due Process Clause runs to citizens and noncitizens  
10 alike. *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507  
11 U.S. 292, 306 (1993)) (cleaned up) (“It is well established that the Fifth  
12 Amendment entitles aliens to due process of law in the context of removal  
13 proceedings.”). Evaluating the contours of Perez Bueno’s due process rights  
14 proceeds in two steps: “the first asks whether there exists a protected liberty  
15 interest under the Due Process Clause, and the second examines the procedures  
16 necessary to ensure any deprivation of that protected liberty interest accords  
17 with the Constitution.” *Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025  
18 WL 1927596, at \*2 (E.D. Cal. July 14, 2025) (citing *Ky. Dep’t of Corrections v.*  
19 *Thompson*, 490 U.S. 454, 460 (1989)).

20 1. *Protected liberty interest*

21 On the first point, the Court finds that Perez Bueno has a protected liberty  
22 interest in remaining in the community at liberty absent sufficient justification  
23 for his re-detention.

24 Conditional release from physical restraint may give rise to a protected  
25 liberty interest. *Young v. Harper*, 520 U.S. 143, 147-49 (1997). Once an  
26 individual is granted conditional release, therefore, he may have a protected  
27 liberty interest in remaining in the community, and a right to procedural  
28 protections before that liberty is revoked. *See id.* (due process requires pre-

1 deprivation hearing before revocation of pre-parole); *Gagnon v. Scarpelli*, 411  
2 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S.  
3 471, 482 (1972) (same, in parole context). In deciding whether a specific form of  
4 conditional release gives rise to a protected liberty interest, courts compare the  
5 form of conditional release at issue with the parolee’s liberty interest as  
6 described in *Morrissey v. Brewer*, a seminal case in this area. See *González-*  
7 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks  
8 and citation omitted).

9 In *Morrissey*, the Supreme Court explained that parole enables a parolee  
10 “to do a wide range of things” available to individual who have never been  
11 convicted of any crime—to live at home, work, be with his friends and family,  
12 and “form the other enduring attachments of normal life.” *Morrissey*, 408 U.S.  
13 at 482. “Though the [government] properly subjects [the parolee] to many  
14 restrictions not applicable to other citizens,” including monitoring and requiring  
15 authorization to work and travel, the parolee’s “condition is very different from  
16 that of confinement in a prison.” *Id.* Moreover, a parolee “relie[s] on at least an  
17 implicit promise that parole will be revoked only if he fails to live up to the  
18 parole conditions.” *Id.* The revocation of parole undoubtedly “inflicts a grievous  
19 loss on the parolee,” and as such, a parolee possesses a protected interest in his  
20 continued liberty. *Id.* at 481-84.

21 Perez Bueno was granted release on his own recognizance pending  
22 completion of his removal proceedings. His release was an implicit promise that  
23 he would be able to stay in the community for the duration of his administrative  
24 proceedings absent changed circumstances. Among other things, his conditional  
25 release allowed him to live in the community with his parents and his six-year-  
26 old sister. (Pet. Ex. A.) The Court thus easily concludes—as have many courts  
27 in this Circuit—that once Perez Bueno was released on bond, he gained a  
28 protected liberty interest in remaining out of custody. *E.g.*, *Pinchi v. Noem*, 792

1 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) (“[E]ven when ICE has the initial  
2 discretion to detain or release a noncitizen pending removal proceedings, after  
3 that individual is released from custody she has a protected liberty interest in  
4 remaining out of custody”); *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130,  
5 1136 (W.D. Wash. 2025) (finding that “the government’s decision to release an  
6 individual [from immigration custody] creates an implicit promise that the  
7 individual’s liberty will be revoked only if they fail to abide by the conditions of  
8 their release”) (cleaned up); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D.  
9 Cal. 2019) (“Just as people on preparole, parole, and probation status have a  
10 liberty interest, so too does [a noncitizen released from immigration detention]  
11 have a liberty interest in remaining out of custody on bond.”).

12 2. *Process owed in connection with re-detention*

13 Given that Perez Bueno has a protected liberty interest in his conditional  
14 release, the question is what process he is owed before the government would  
15 take that liberty interest away.

16 a. Right to a post-deprivation hearing

17 As an initial matter, Respondents appear to agree that Perez Bueno is  
18 entitled to a post-deprivation hearing in the form of a bond hearing in front of  
19 an immigration judge—even though to date he has not apparently received such  
20 a hearing.

21 When Perez Bueno was initially apprehended, he was deemed entitled to  
22 bond under § 236 of the Immigration and Nationality Act, codified at 8 U.S.C. §  
23 1226. (Answer Ex. 1 (indicating that Perez Bueno was released “[i]n accordance  
24 with section 236 of the Immigration and Nationality Act”).) That provision gives  
25 immigration authorities discretion to release appropriate individuals on bond if  
26 they can show that they are not a flight risk or danger to the community. 8  
27 U.S.C. § 1226(a). Last year, DHS issued a policy stating that individuals like  
28 Perez Bueno who entered without inspection would be treated as “applicants for

1 admission,” and that their entitlement to release would be evaluated under  
2 section 235 of the INA instead of section 236. Section 235 severely limits an  
3 individual’s ability to seek bond. 8 U.S.C. § 1225(b)(2)(A). A court in this District  
4 certified a class of individuals subject to this new policy, granted summary  
5 judgment in their favor, and vacated the policy under the Administrative  
6 Procedures Act. *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM  
7 (C.D. Cal. Dec. 18, 2025).

8 Respondents concede that Perez Bueno is a member of the *Maldonado*  
9 *Bautista* class. (Answer at 6-7.) Paired with Perez Bueno’s claim that he has not  
10 been granted a bond hearing since he was returned to custody, the Court takes  
11 Respondents’ admission to mean he has been treated, since his return to  
12 custody, as a person detained under section 235 of the INA and denied a bond  
13 hearing. Incongruously, Respondents also claim that a bond hearing before a  
14 neutral IJ is the post-deprivation “process” that a person who violates the  
15 conditions of his bond is entitled to. (See Answer at 6 (arguing that due process  
16 entitles a person who violates the conditions of his release to “post-detention  
17 custody review, including the opportunity to seek a bond hearing before an  
18 Immigration Judge”).)

19 Given Respondents’ concession, the Court concludes that Perez Bueno is  
20 a member of the *Maldonado Bautista* class, that he is detained pursuant to  
21 section 236, and that he is entitled to an order granting him a bond hearing  
22 under that case—at least until his removal order is administratively final.

23 b. Right to a pre-deprivation hearing

24 But Perez Bueno claims he is entitled to more: that due process required  
25 a hearing *before* he was taken into custody on alleged violations. He thus argues  
26 that the appropriate habeas remedy is for him to be released back to the  
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1 community with an order preventing his re-detention absent a pre-deprivation  
2 hearing before a neutral decisionmaker. The Court agrees.

3 To determine what procedures are constitutionally sufficient to protect a  
4 liberty interest, the Court applies the three-part test established in *Mathews v.*  
5 *Eldridge*, 424 U.S. 319 (1976). See *Rodriguez Diaz v. Garland*, 53 F.4th 1189,  
6 1206-07 (9th Cir. 2022) (applying *Mathews v. Eldridge* in immigration detention  
7 context). The Mathews test balances three factors:

8 First, the private interest that will be affected by the official action;  
9 second, the risk of an erroneous deprivation of such interest through  
10 the procedures used, and the probable value, if any, of additional or  
11 substitute procedural safeguards; and finally, the Government's  
12 interest, including the function involved and the fiscal and  
13 administrative burdens that the additional or substitute procedural  
14 requirement would entail.

15 424 U.S. at 335. Each of the three *Mathews* factors supports Perez Bueno's  
16 constitutional right to a hearing in front of a neutral decisionmaker *before* he  
17 was re-detained—and not merely the post-detention hearing that Respondents  
18 now (apparently) concede he is entitled to.

19 As to the first factor, and as set out in the prior section, the liberty interest  
20 at stake here is significant. Perez Bueno has an interest in remaining in his  
21 home, living with his parents and his young sister, and maintaining his  
22 relationships in the community. See *Ortega*, 415 F. Supp. 3d at 970 (holding that  
23 petitioner had a substantial liberty interest where he had been released from  
24 custody for 18 months and was living with his wife, spending time with his  
25 mother and other family members, working as a bicycle mechanic, and  
26 developing friendships in his community).

27 Respondents argue that DHS has extensive discretion in deciding whether  
28 an individual should be detained or re-detained—as if that extensive discretion

1 lessens Perez Bueno's interest in remaining in the community. (Answer at 5-6.)  
2 It is true, as a general proposition, that DHS has significant discretion over  
3 whether to grant release from detention. But Perez Bueno is not similarly  
4 situated to those individuals in removal proceedings who have never been  
5 released on bond. He was released from ICE custody after his initial  
6 apprehension and was living in the community for a year and a half. Perez  
7 Bueno's release from ICE custody constituted an "implied promise" that his  
8 liberty would not be revoked unless he "failed to live up to the conditions of his  
9 release." *Morrissey*, 408 U.S. at 482. Perez Bueno justifiably relied on the  
10 government's implied promise in living the community and caring for his family  
11 members. The more than eighteen months he spent out of custody since ICE  
12 initially released him only heightened his liberty interest in remaining out of  
13 detention. Accordingly, Perez Bueno's private interest in retaining his liberty is  
14 significant.

15 Turning to the second *Mathews* factor, there is a significant risk that the  
16 government will erroneously deprive Perez Bueno of that liberty interest if it  
17 does not provide him with a pre-deprivation hearing. The crux of due process "is  
18 the opportunity to be heard 'at a meaningful time and in a meaningful  
19 manner.'" *Mathews*, 424 U.S. at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545,  
20 552 (1965)) And where, as here, "[the petitioner] has not received any bond or  
21 custody . . . hearing," and thus has had no opportunity to address the alleged  
22 violations, "the risk of an erroneous deprivation [of liberty] is high." *Singh v.*  
23 *Andrews*, No. 1:25-CV-00801, 2025 WL 1918679, at \*7 (E.D. Cal. July 11, 2025)  
24 (cleaned up).

25 In disputing that proposition, Respondents appear to argue that their  
26 record of violations is enough to warrant re-detention in DHS's sole discretion.  
27 (Answer at 6.) That argument is not persuasive for two reasons. First, Perez  
28 Bueno disputes whether he violated the conditions of his bond—or at least the

1 willfulness and significance of any violations; he claims that there were  
2 occasions on which the mobile app failed and that each time, he communicated  
3 with the officer in charge of his case. The right to due process is the right to be  
4 heard with respect to the reasons the government would deprive an individual  
5 of liberty or property; the government merely saying it has a reason to deprive  
6 one of liberty does not satisfy the requirements of due process. *Ramirez Tesara*  
7 *v. Wamsley*, 800 F. Supp. 3d at 1137 (“That the Government may believe it has  
8 a valid reason to detain petitioner does not eliminate its obligations to effectuate  
9 the detention in a manner that comports with due process.”) (cleaned up). And  
10 to date, there is no record that anyone, let alone a neutral decisionmaker, has  
11 heard Perez Bueno out concerning the alleged violations.

12 Second, and even assuming that there were violations, civil immigration  
13 detention is constitutionally permissible only to prevent flight or protect against  
14 danger to the community. *See Zadvydas*, 533 U.S. at 690. Evaluation of the  
15 appropriateness of detention under § 1226(a) is keyed to those same two factors.  
16 *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006). It was those factors that  
17 were necessarily found when Perez Bueno was initially released. *See Noori v.*  
18 *LaRose*, \_\_\_ F. Supp. 3d \_\_\_, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at  
19 \*13 (S.D. Cal. Oct. 1, 2025) (“In general, ‘[r]elease reflects a determination by  
20 the government that the noncitizen is not a danger to the community or a flight  
21 risk.’”); *Sun v. Santacruz*, No. 5:25-CV-02198-JLS-JC, 2025 WL 2730235, at \*6  
22 (C.D. Cal. Aug. 26, 2025) (citation omitted) (a petitioner’s initial release from  
23 custody, “at least implicitly,” “reflects a determination by the government that  
24 the noncitizen is not a danger to the community or a flight risk”). And once he  
25 was released, he had a liberty interest “in remaining at liberty unless [he] no  
26 longer meets those criteria.” *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO,  
27 2025 WL 2581185, at \*13 (E.D. Cal. Sept. 5, 2025) (cleaned up).

1 In the context of civil immigration detention, then, it is not solely the  
2 violation itself that is compelling, but what a violation says about whether the  
3 individual poses a risk of flight or danger. *Guillermo M. R. v. Kaiser*, No. 25-CV-  
4 05436-RFL, 2025 WL 1983677, at \*8 (N.D. Cal. July 17, 2025) (rejecting  
5 argument that ICE can re-detain based on “purely technical violations,” like  
6 being late to a check-in, without regard to whether that technical violation  
7 means that one is a flight risk or danger); *Bernal v. Albarran*, No. 25-CV-09772-  
8 RS, 2025 WL 3281422, at \*6 (N.D. Cal. Nov. 25, 2025) (same). And once again,  
9 Respondents have not shown that anyone, let alone a neutral decisionmaker,  
10 conducted *that* analysis in Perez-Bueno’s case.

11 In short, if Respondents believe that Perez Buena’s technical violations  
12 mean that he is a flight risk, they can of course make that argument at any  
13 future hearing. That fact alone, however, does not swing this factor in  
14 Respondents’ favor. Given that Perez Bueno “was previously found to not be a  
15 danger or risk of flight and the unresolved questions about the timing and  
16 reliability of the new information, the risk of erroneous deprivation remains  
17 high.” *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025).

18 Finally, Respondents have not articulated any countervailing government  
19 interest—the third and final *Mathews* factor—that supports conducting a bond  
20 hearing only after Perez Bueno has been detained. Due process “usually”  
21 requires a hearing *before* the State deprives a person of liberty or property.  
22 *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). Exceptions to that general rule  
23 are appropriate where quick action is necessary or where it is impractical to  
24 impossible to provide pre-deprivation process. *Id.* at 128. But neither of those  
25 exceptions appears to apply here. Respondents do not argue—let alone support  
26 an argument—that quick action was necessary here. Indeed, the oldest violation  
27 that Respondents cite occurred a year and a half before he was detained, and  
28 the most recent violation occurred a month and a half before the check-in

1 appointment at which he was detained. (Answer Ex. 2.) Awareness of those  
2 violations did not lead authorities to go out to arrest Perez Bueno where they  
3 knew he lived; instead, they simply waited until he voluntarily showed up to his  
4 next appointment to take him into custody. On these facts, any possible claims  
5 of urgency are substantially undermined.

6 Nor would it be impractical to provide pre-detention procedures. DHS  
7 facilitates bond hearings before an IJ all the time. That the current regulatory  
8 structure does not provide for such a procedure to occur pre-detention does not  
9 make such a proceeding impractical. *See Pinchi*, 792 F. Supp. 3d at 1036  
10 (“[W]hether or not the government’s existing regulations and practices provide  
11 for pre-detention bond hearings, due process requires the government to identify  
12 some interest beyond its own administrative practices to justify depriving an  
13 individual of her liberty without any pre-deprivation protections. Detention for  
14 its own sake, to meet an administrative quota, or because the government has  
15 not yet established constitutionally required pre-detention procedures is not a  
16 legitimate government interest.”).

17 Nor can the government suggest that the cost of providing such  
18 protections would be fiscally or administratively onerous. If the government  
19 wishes to detain Perez Bueno, it need only provide a hearing before a neutral  
20 decisionmaker. “In immigration court, custody hearings are routine and impose  
21 a minimal cost.” *Singh*, 2025 WL 1918679, at \*8 (cleaned up). Indeed, it is likely  
22 that the cost to the government of detaining Perez Bueno pending any bond  
23 hearing would significantly exceed the cost of providing him with a pre-  
24 detention hearing.

25 In short, “[i]f the government wishes to re-arrest [Perez Bueno] at any  
26 point, it has the power to take steps toward doing so; but its interest in doing so  
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1 without a hearing is low.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal.  
2 2019).

3 In resisting this conclusion, Respondents offer a few additional  
4 arguments. First, Respondents argue that nothing in the regulations or statutes  
5 requires, or even contemplates, a pre-deprivation hearing. (Answer at 5.) But  
6 the regulations do not set the boundaries of the process that is required; the Due  
7 Process Clause does.

8 Second, Respondents cite several inapposite cases. First, *Moran v. U.S.*  
9 *Dep’t of Homeland Security* did not find (as Respondents suggest) that a  
10 petitioner in Perez Bueno’s position could not state a procedural due process  
11 claim; it found that the petitioners in that case had not articulated with  
12 particularity the source of such a due process right. 2020 WL 6083445, at \*9  
13 (C.D. Cal. Aug. 21, 2020). The Court finds no similar pleading problem in Perez  
14 Bueno’s petition, and as discussed above, finds that Perez Bueno has shown that  
15 he has a protected liberty interest.

16 The cited portions of *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir.  
17 2009), merely quotes the regulation that applies to individuals who have a final  
18 removal order, 8 C.F.R. § 241.4, in a discussion about mootness. Assuming that  
19 regulation applies to Perez Bueno (whose removal order is not yet  
20 administratively final), the regulation does not set the floor under the Due  
21 Process Clause, and (contrary to the suggestion in Respondents’ briefing)  
22 *Rodriguez* does not pass on that question either.

23 In *Demore v. Kim*, 538 U.S. 510 (2003), the Court found that § 236(c)—  
24 which requires *mandatory* detention for certain individuals with criminal  
25 convictions—was constitutional. But section 236(c) has no application here;  
26 Perez Bueno has no criminal convictions and is detained under § 236(a). Nor  
27 (again, contrary to Respondent’s suggestion) does *Demore* speak to the process  
28 that may be required in connection with a re-detention claim. *Prieto-Romero v.*

1 *Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008), similarly concerns individuals whose  
2 immigration cases are in a different posture than the one presented here—those  
3 who are found to be a danger or a flight risk, are denied bond, and claim  
4 prolonged detention while they seek judicial review of their removal order—and  
5 thus says nothing of Perez Bueno’s procedural due process rights in connection  
6 with re-detention under an entirely different set of facts.

7 In short, each of the *Mathews* factors favors Perez Bueno’s bid for a pre-  
8 deprivation hearing. He has therefore shown that the Due Process Clause  
9 entitles him to a bond hearing before an immigration judge prior to any re-arrest  
10 or detention.

11 3. *Appropriate Relief*

12 As has been found in countless similar cases in this Circuit, the  
13 appropriate remedy in such cases is to order Perez Bueno placed in the position  
14 he would have been absent the due process violation—that is, he should be  
15 released from custody and an order should be entered that he may not be re-  
16 detained until he is provided a hearing before an immigration judge to  
17 determine whether detention is appropriate. *E.g.*, *E.A. T.-B. v. Wamsley*, 795 F.  
18 Supp. 3d 1316, 1324 (W.D. Wash. 2025) (granting such relief).

1 **RECOMMENDATION**

2 For the foregoing reasons, it is recommended that the District Judge issue  
3 an Order: (1) accepting and adopting this Report and Recommendation; (2)  
4 granting Claim Two in the Petition (Pet. at 20); (3) ordering that Perez Bueno  
5 be released from immigration detention within one business day of any order  
6 adopting this Report and Recommendation and that he not be re-detained  
7 without a pre-deprivation hearing, at which his entitlement to bond is  
8 considered under § 1226(a), and not § 1225; (4) ordering that Respondents file a  
9 status report within two business days of any order adopting this Report and  
10 Recommendation confirming their compliance with the Court's order; (5)  
11 denying the remaining claims in the Petition as moot, in light of the relief  
12 granted on Claim Two; (6) entering judgment consistent with this Report and  
13 Recommendation.

14  
15 DATED: January 26, 2026



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17 BRIANNA FULLER MIRCHEFF  
18 UNITED STATES MAGISTRATE JUDGE  
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**NOTICE**

Reports and Recommendations are not appealable to the United States Court of Appeals for the Ninth Circuit, but may be subject to the right of any party to file objections as provided in the Local Civil Rules for the United States District Court for the Central District of California and review by the United States District Judge whose initials appear in the docket number. No notice of appeal pursuant to the Federal Rules of Appellate Procedure should be filed until the District Court enters judgment.