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2
3 **IN THE UNITED STATES DISTRICT COURT FOR THE**
4 **WESTERN DISTRICT OF WASHINGTON**
5 **AT SEATTLE**

6 **G.S.,**

7 **Petitioner,**

8 **vs**

9 **LAURA HERMOSILLO, et al.,**

10 **Respondents.**

Case No.: 2:25-cv-02704-TSZ

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

Note on Motion Calendar:
January 20, 2026

11 **INTRODUCTION**

12 1. Respondents' return and accompanying evidence pertaining to Petitioner
13 demonstrate that the salient facts in this case are undisputed. Petitioner was re-arrested
14 without Respondents first providing notice and a hearing before a neutral decisionmaker, where
15 ICE must demonstrate by clear and convincing evidence that Petitioner was re-detained because
16 he is now a flight risk or a danger to the community. The Respondents simply assert that
17 Petitioner presented a flight risk because he was working (driving through) Montana and failed
18 to comply with his conditions of release. Dkt. 6 at 8. The Respondents rely upon the
19 Declaration of Yralees Melendez Diaz ("Melendez Decl"), Dkt. 7, and the Declaration of
20 Jennifer Wong (Wong Decl"), Dkt. 8 (inclusive of Exhibits 8-1 through 8-4). We submit that
21 that reliance is misplaced, and further that the Declarations ignored the Respondents' own
22 evidence. In particular, Petitioner had a work permit when he was stopped. Melendez Decl,
23
24

25 Dkt. 7. In addition, when Petitioner was released on an Order of Release on Recognizance, there
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were no restrictions upon Petitioner to drive a truck, and travel throughout the United States. Wong Decl, Dkt. 8-3, pp. 2-6. In addition, Petitioner had been wearing a GPS ankle bracelet for over 20 months, and was wearing it at the time he was taken into custody. Dkt. 4, Praecipe to substitute Exhibit A and Exhibit B, Exhibit B Petitioner's Decl., Dkt. 4-2, pp. 1-5, and see Driver/Vehicle Examination Report, Dkt. 4-2, p. 6. Moreover, Respondents' legal arguments are irrelevant and contrary to this Court's recent rulings, or otherwise unavailing.

2. Because due process demands that Respondents afford Petitioner a meaningful process before re-detention, this Court should grant Petitioner's habeas petition and order immediate release.

ARGUMENT

Respondents' statutory authority to detain is irrelevant to Petitioner's claim. Petitioner has a due process right to a pre-deprivation hearing under the *Mathews* balancing factors, an argument that Respondents fail to contest.

3. Respondents fail to meaningfully contest Petitioner's entitlement to relief. First, Respondents' focus on ICE's statutory detention authority avoids the constitutional issue before the Court: whether Petitioner's re-detention comported with procedural due process. In fact, in granting a similar re-detention habeas petition, this Court stated:

To the extent that the Government's briefing suggests that Section 1225(b) should be the beginning and end of the Court's inquiry, this position is emphatically rejected. In determining the lawfulness of Petitioner's detention, the Court will focus not on the Government's claimed authority to detain, but the process by which Petitioner was detained.

P.T v. Hermosillo, No. 2:25-cv-02249-KKE, 2025 WL 3294988, at *2 n.1 (W.D. Wash Nov. 26, 2025); see also, e.g., Francois v. Wamsley, No. C25-2122-RSM-GJL, 2025 WL 3063251, at *3 (W.D. Wash. Nov. 3, 2025) ("Any argument that ICE acted within its authority has no affect

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[sic] on a claim contending that detention violates Constitutional Due Process." (citation omitted).

4. Although not necessary to decide the merits of the instant petition, it is worth noting that the Court previously rejected the application of 8 U.S.C. § 1225(b) to a petitioner who was similarly apprehended after entering the country, released to continue his removal proceedings, and subsequently re-detained. See *P.T.*, WL 3294988, at *2 n.1 ("Although the Government asserts that Petitioner falls within the mandatory detention scheme under 8 U.S.C. § 1225(b) simply because he has not been 'admitted' to the United States, this Court joins others in rejecting an expansion of the scope of this scheme to include Petitioner." (citation modified)). The same logic holds here.

5. Similarly unavailing is Respondents' assertion that "[t]here is no statutory or regulatory requirement that a noncitizen be provided with a pre-detention hearing before re-detention." Dkt. 6, p. 5. As Respondents "acknowledge," Dkt. 6, p. 6, courts in this District, and courts around the country, have repeatedly held that such a pre-deprivation hearing is required by the U.S. Constitution. *E.g.*, *Tomas Manuel v. Hermosillo*, No. C25-2353-TL-MLP, 2025 WL 3690778 (W.D. Wash. Dec. 10, 2025) ("Setting aside Respondents' statutory interpretation, which recent decisions of the Court have cast into doubt, the government must still comply with constitutional requirements."), *report and recommendation adopted*, 2025 WL 3697277 (Dec. 19, 2025); *P.T.*, 2025 WL 3294988, at *4 (granting habeas petition, ruling that "absent notice and an opportunity to be heard," "[p]etitioner's re-detention does not comport with due process," and granting immediate release); *Ramirez Tesara v. Wamsley*, No. 2:25-cv-01723-

KKE-TLF, 2025 WL 3288295, at *2 (W.D. Wash. Nov. 25, 2025) ("Petitioner's re-detention
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without notice and an opportunity to be heard violates his right to due process"); *Y.MM v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2-3 (W.D. Wash. Nov. 6, 2025) (same); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *9 (W.D. Wash. Oct. 7, 2025) (same); *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (same); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *3 (W.D. Wash. Sept. 17, 2025) (granting TRO and ordering immediate release due to lack of pre-deprivation hearing); *Francois*, 2025 WL 3063251 (same); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *8 (E.D. Cal. Aug. 21, 2025) (same); *Duong v. Kaiser*, No. 25-CV-07598-JST, 2025 WL 2689266, at *7 (N.D. Cal. Sept. 19, 2025) (granting preliminary injunction and ordering that petitioner not be re-detained without a pre-deprivation hearing before a neutral immigration judge where the government must demonstrate by clear and convincing evidence that she is a flight risk or danger); *Garro Pinchi v. Noem*, 792 F.Supp.3d 1025 (N.D. Cal.) (same). Respondents fail to provide a valid basis for their "disagree[ment] with these holdings." Dkt. 8 at 2 n.2.

Procedural due process requires the government to provide notice and a hearing prior to re-detention.

6. In *E.A.T.-B*, this Court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework to hold that even in a case where the government asserted that mandatory detention initially applied, a person's re-detention could not occur absent a hearing.

7. The Court did the same in *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez*. See *Ramirez*

1 Tesara, 2025 WL 2637663, at *2-3; Kumar, 2025 WL 2677089, at *2-3; Ledesma Gonzalez,
2 2025 WL 2841574, at *7-8.

3 8. The *Mathews* factors weigh in favor of granting Petitioner's petition for a writ of habeas
4 corpus and immediate release. Respondents do not contest the *Mathews* test's applicability
5

6 9. First, Respondents assert that noncitizens' liberty interests are less than those of U.S.
7 citizens. *See* Dkt. 6 at pp 6-7. However, this "does not negate Petitioner[s'] liberty interest" in
8 avoiding arbitrary re-detention. *Kumar*, 2025 WL 2677089, at *3; *see also, e.g., P.T.*, 2025 WL
9 3294988, at *2 (citing *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025)
10 ("[I]ndividuals who have been released from custody, even where such release is conditional,
11 have a liberty interest in their continued liberty.")). The undisputed facts demonstrate that
12 Respondents previously released the Petitioner from immigration custody under parole, that the
13 Petitioner timely-filed for asylum, and that the Petitioner was actively participating in
14 immigration check-ins when Respondents took him into immigration custody without notice and
15 a hearing prior to his re-detention. *See* Dkt. 4 at pp. 2-5. Regulations implementing 8 U.S.C. § 1
16 182(d)(5) require DHS to release an individual under parole after determining that they "present
17 neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b).
18

19 10. Second, Respondents' assertion that existing procedures are sufficient to protect whatever
20 interest that Petitioner had due process to be free from erroneous deprivation of his liberty
21 is starkly inconsistent with this Court's caselaw. Respondents' claim that Petitioner was taken
22 into custody due to alleged parole and release violations shows that the risk of erroneous
23 deprivation of liberty is high when ICE fails to provide notice and a hearing prior to re-detention.
24

1 To begin with, Respondents do not contest that Petitioner communicated with his assigned ICE
 2 officers, that he had a work permit, and that he was wearing a GPS ankle bracelet to track his
 3 movements around the United States, and that he had a valid Commercial Driver's License.
 4 Respondents' submission of declarations from deportation officers. Dkt. 4-2, Exhibit B. pp. 2-5.
 5 Under the totality of the circumstances, the Declaration of Yralees Melendez Diaz, Dkt. 7, and
 6 the Declaration of Jennifer Wong Dkt. 8 (inclusive of Exhibits 8-1 through 8-4) should be given
 7 limited weight if even considered by the Court. For example, Petitioner has provided a first-hand
 8 account of his compliance with check-in requirements and close communication with his
 9 assigned officer regarding any technical difficulties. Dkt. 4 ¶¶ 3-5. In contrast, none of the
 10 officers' assertions is based on personal knowledge of Petitioner's circumstances of re-detention.
 11 *See* Fed. R. Evid. 602. Instead, we submit that the declarations contain inadmissible hearsay in
 12 violation of Federal Rule of Evidence 801(c). Moreover, the best evidence rule requires that
 13 Respondents produce the "various records and systems maintained by ICE[.]" rather than relying
 14 upon officer summaries of them, *see* Fed. R. Evid. 1002.

17 11. In fact, even if the declarations and the attached ICE records are considered to meet the
 18 facial requirements under the Federal Rules of Evidence, this Court has previously found "no
 19 reason to assume the accuracy of the Government's records of Petitioner's ATD violations, or to
 20 assume that they alone justify detention." *P.T.*, 2025 WL 3294988, at *3; *see also* Order,
 21 *Francois v. Wamsley*, No. 2:25-cv-02122-RSM-GJL (W.D. Wash. Dec. 5, 2025), Dkt. 22 at 6
 22 ("[N]or do [Respondents] address that one of his check-ins failed due to the app being faulty,
 23 potentially the same alleged 'failure to report,' which the Government acknowledged and
 24 cleared."). Regardless, "factual disputes" as to any alleged violations of Petitioner's initial

1 release conditions "should [have been] resolved at a pre-deprivation hearing, rather than resolved
 2 after the fact by this Court." *Ramirez Tesara*, 2025 WL 3288295 at *5; *see also P.T.*, 2025 WL
 3 3294988, at *3 ("[A]ny factual dispute about the validity of the [alleged] violations should have
 4 been resolved at a pre-deprivation hearing.") This Court has now repeatedly held that even
 5 assuming parole violations or valid reasons for re-detention, Respondents are not permitted to
 6 ignore their "obligation to effectuate the detention in a manner that comports with due process."
 7 *P.T.*, 2025 WL 3294988, at *3; *see also Ramirez Tesara*, 2025 WL 3288295, at *5 ("Even if the
 8 Government accurately counted Petitioner's [alleged forty] parole violations ... it is clear that
 9 Petitioner was not provided notice and an opportunity to be heard on them if, even now, the
 10 Government cannot fully describe the violations that purportedly triggered Petitioner's re-
 11 detention.").

12
 13 12. Third, Respondents' assertion that the government possesses a "strong" interest re-
 14 detaining non-citizens with alleged parole violations remains unavailing. *See* Dkt. 6, p. 7. Courts
 15 in this District have now repeatedly recognized that (1) the government's interest in re-detaining
 16 non-citizens is "low," *e.g.*, *Ramirez Tesara*, 2025 WL 3288295, at *5; *P.T.*, 2025 WL 3294988,
 17 at *3; Order, *Francois*, No. 2:25-cv-02122-RSM-GJL, Dkt. 22 at 7; (2) any interest in ensuring
 18 conditions for release are followed "are not threatened if a pre-deprivation is required," *P. T.*,
 19 2025 WL 3294988, at *4; and (3) the "finite" costs of providing such notice and a hearing "are
 20 far out-weighted by the risk of erroneous deprivation" of Petitioner's liberty interests, *id.*, at *3.
 21 Because Respondents' manner of re-detaining the Petitioner did not comport with procedural due
 22 process, the Petitioner has been unlawfully detained since his re-detentions in December 2025.

23 CONCLUSION

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1 13. Accordingly, Petitioner requests the Court grant this petition.

2 14. Respondents' return and supporting documents do not contest the material facts nor pose
3 new legal arguments that undermine this Court's recent rulings in similar habeas cases. As each
4 of the *Mathews* factors favor Petitioner, the Court should grant the Petitioner's habeas petition
5 for immediate release, and order that Respondents not re-detain Petitioner "until after an
6 immigration court hearing is held (with adequate notice) to determine whether detention is
7 appropriate." *E.A. T.-B.*, 795 F. Supp. at 1324.
8

9 DATED: January 20, 2026.

10 Respectfully submitted,
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16 *I certify that this memorandum contains 1969*
17 *words in compliance with the Local Civil Rules.*