The Honorable Lauren King

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Annellycis De Jesus ALBORNOZ LIRA, Petitioner, v. Laura HERMOSILLO et al., Respondents.	Case No. 2:26-cv- 02713-LK **PETITIONERS' TRAVERSE** Noted for Consideration: February 2, 2026

INTRODUCTION

Respondents do not dispute that the Department of Homeland Security (DHS) re-detained Petitioner Annellycis De Jesus Albornoz Lira—after having previously released her from immigration custody on parole—without notice and without any hearing justifying the renewed deprivation of liberty. As numerous courts in this District and across the nation have recognized, such arbitrary re-detention violates the Due Process Clause. Respondents point to their statutory and regulatory authority to detain Ms. Albornoz but such authority cannot displace the Constitution's requirements upon DHS in re-detaining an individual whom it previously paroled. In fact, Respondents maintain that they were authorized to re-detain Ms. Albornoz without providing any pre-deprivation procedures, underscoring a serious risk of erroneous deprivation of liberty. Courts in this District have also rejected Respondents' argument that a post-

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deprivation hearing is sufficient to remedy a due process violation that rendered the re-detention unconstitutional at its inception.

Accordingly, this Court should grant Petitioner's petition to order Ms. Albornoz's immediate release and enjoin Respondents from re-detaining her absent a pre-deprivation hearing "as law and justice require." 28 U.S.C. § 2243.

ARGUMENT

I. Petitioner was re-detained without any notice or hearing.

Respondents' submissions confirm that Petitioner entered the country on March 18, 2024, for a pre-scheduled CBP One appointment and was paroled into the interior pursuant to 8 U.S.C. § 1182(d)(5). Dkt. 16 at 5; Dkt. 17 ¶¶ 4–5; Dkt. 18-2; Dkt. 18-4 at 3. Respondents also do not dispute that DHS failed to provide any notice or hearing to Ms. Albornoz before re-detaining her in September 2025.[1] Instead, they insist that "due process did not require a pre-detention hearing" before the deprivation of her liberty, Dkt. 16 at 6, without meaningfully addressing the weight of authority cited in the petition. *See* Dkt. 12 ¶¶ 5, 7, 44–48; *see also, e.g.*, *Cabrera Perez v. Hermosillo*, No. 2:25-cv-2542-RSM, 2026 WL 100735, at *2, *6 (W.D. Wash. Jan. 14, 2026) (ordering immediate release for group that included a petitioner who entered on CBP One and was later re-detained without notice and a hearing); *Osuna Benitez v. Hermosillo*, No. 2:25-cv-02535-BAT, 2025 WL 3763932, at *3, *5–*6 (W.D. Wash. Dec. 30, 2025) (ordering immediate release for "arriving" petitioner who entered on CBP One and was re-detained without notice and a hearing); *Francois v. Wamsley*, No. 2:25-cv-2122-RSM, 2025 WL 3496557, at *2, *4 (W.D. Wash. Dec. 5, 2026) (citing a petitioner's sworn statement that his family entered the United

[1] Respondents allege conflicting dates for Ms. Albornoz's re-detention. *See* Dkt. 17 ¶ 2 (Deportation Officer Enrique Rodriguez's declaration, claiming familiarity with Ms. Albornoz's case); *id.* ¶ 11 (alleging Ms. Albornoz was re-detained on September 25, 2025); Dkt. 16 at 2 (same); *but see* Dkt. 18-4 (DHS Form I-213 reporting that Ms. Albornoz was re-detained on September 30, 2025). Ms. Albornoz has consistently stated that she was arbitrarily re-detained on September 30, 2025, Dkt. 14 ¶ 10, mere days after she attended an ISAP appointment in person on September 26, 2025 and was shown that "all of [her] check-ins had been completed" and informed she "was in compliance with all [her] requirements," *id.* ¶ 5.

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States through a CBP One appointment, and granting group habeas petition to order immediate release); *Ramirez Tesara v. Wamsley*, No. C25-1723-KKE-TLF, 2025 WL 3288295, at *1, *6 (W.D. Wash. Nov. 25, 2025) (holding that even when the government alleges supervised release violations, it must provide notice and a pre-deprivation hearing to comply with due process).

As outlined in the petition and in this traverse, due process requires such safeguards for someone in Ms. Albornoz's circumstances—an individual who was marked as arriving and released on parole, living in the interior without incident while pursuing an application for relief, and then arbitrarily re-detained despite a record of compliance with her immigration requirements.

II. Under *Mathews v. Eldridge*, Petitioner's arbitrary re-detention without a pre-deprivation hearing violates the Due Process Clause of the Fifth Amendment.

The undisputed facts in this case establish a straightforward constitutional violation: DHS revoked Ms. Albornoz's liberty and re-detained her without notice or a pre-deprivation hearing, in violation of the Due Process Clause of the Fifth Amendment. Respondents' arguments to the contrary miss the mark.

As an initial matter, Respondents' emphasis on ICE's asserted statutory detention authority under 8 U.S.C. § 1225(b) is beside the point. The question here is not whether Respondents possess some abstract authority to detain "applicants for admission," Dkt. 16 at 4–5, but whether the process by which Respondents revoked Ms. Albornoz's liberty and re-detained her satisfied the Fifth Amendment. Multiple courts in this District have "reject[ed] Respondents' argument that . . . re-detention is lawful because the applicable statute and regulation do not require a pre-detention hearing." *Shinwari v. Hermosillo*, No. 2:26-cv-00009-RAJ, 2026 WL 262605 (W.D. Wash. Jan. 30, 2026) (citing cases) (granting habeas petition filed by two parolees); *see also, e.g.*, *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1323 (W.D. Wash. 2025) ("Petitioner does not claim to be entitled to a hearing consistent with a particular statute: he argues that the Due Process Clause requires it. This line of Respondents' reasoning therefore does not address Petitioner's concern and cannot carry the day."); *P.T. v. Hermosillo*, No. C25-

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2249-KKE, 2025 WL 3294988, at *2 n.1 (W.D. Wash. Nov. 26, 2025) ("[The government's] 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."); *Tomas Manuel v. Hermosillo*, No. 2:25-cv-02353-TL-MLP, 2025 WL 3690778, at *2 (W.D. Wash. Dec. 10, 2025), *report & recommendation adopted*, 2025 WL 3697277 (W.D. Wash. Dec. 19, 2025) (stating that regardless of Respondents' contention that petitioners were subject to mandatory detention under 8 U.S.C. § 1225(b), "the government must still comply with constitutional requirements" (citation omitted)); *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 [sic] on a claim contending that detention violates Constitutional Due Process." (citation omitted)).

Ultimately, Respondents do not contest that the *Mathews v. Eldridge* test is appropriate but conduct a flawed analysis of the factors. *See* Dkt. 16 at 6–9.

A. Petitioner has a weighty interest in her continued liberty.

First, Respondents minimize Ms. Albornoz's liberty interest by asserting that they are "not coextensive" with those of U.S. citizens. Dkt. 16 at 6 (citation omitted). But this comparison "does not negate Petitioner's liberty interest in not being detained." *Kumar v. Wamsley*, No. 2:25-cv-01772-JHC-BAT, 2025 WL 2677089, at *3 (W.D. Wash. Sept. 17, 2025).

Second, Respondents' attempt to distinguish Ms. Albornoz because she was designated an "arriving" noncitizen when paroled is likewise unavailing. *See* Dkt. 16 at 7. Ms. Albornoz's interest in not being detained is "the most elemental of liberty interests[.]" *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004). Respondents' contention that, under a "legal fiction," she should be treated as if at the border and with diminished protections, Dkt. 16 at 7, has already been rejected by this Court in *Flores Torres v. Hermosillo*, No. 2:25-cv-02687-LK, 2026 WL 145715, at *3–4 (Jan. 20, 2026) ("[T]he Supreme Court has never applied the entry fiction doctrine to . . . constitutionally justify the *detention* of a person living freely, for years, within the United States—and its expansion here cannot be justified." (citation omitted)).

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In *Flores Torres*, "[t]his Court join[ed] many others in finding that humanitarian parole can establish the . . . kinds of liberty interests [which *Morrissey v. Brewer*, 408 U.S. 471, 481–82 (1972), held are protected by due process]." 2026 WL 145715, at *5 (citing cases). Recently, in a closely analogous case involving a petitioner who "arrived" and was granted parole, another court in this District observed that a noncitizen's initial release "allowed him to gain[] a foothold in the United States and develop ties in this country, thereby strengthening his constitutional right to due process. In revoking Petitioner's release [over fourteen months later], the Government has undeniably inflicted a grievous loss of Petitioner's liberty." *Tsyamba v. Hermosillo*, No. 2:25-cv-02623-GJL, 2026 WL 237514, at *4 (W.D. Wash. Jan. 29, 2026) (citations omitted); *see also, e.g.*, *Osuna Benitez*, 2025 WL 3763932, at *4 (finding that the "[p]etitioner has a substantial interest in remaining in his home with his family and maintaining the relationships he has developed in the one year that he has lived in Oregon"). Here, Respondents do not dispute that DHS previously released Ms. Albornoz without conditions; that she thereafter established a residence in Washington state and began working, attending church, and developing a close community; and that she had a pending asylum application to the immigration court at the time when DHS acted to re-detain her over eighteen months after her initial release. *Compare* Dkt. 14 ¶¶ 2–3, 7–9, *with* Dkt. 16 at 2; Dkt. 17 ¶¶ 5–6, 10. Ms. Albornoz thus had a weighty interest in her continued liberty.

B. The circumstances of Petitioner's re-detention show the high risk of erroneous deprivation of liberty absent adequate notice and hearing.

Respondents' arguments regarding the risk of erroneous deprivation only underscore that such risk is significant in this case. First, Respondents' assertion that Ms. Albornoz presents a "special case" qualifying for an exemption from a pre-deprivation hearing lacks merit. *See* Dkt. 16 at 7. Respondents cite *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) for this proposition but omit the Court's reasoning, which recognized that in such instances, "a statutory provision for a postdeprivation [sic] hearing, or a common-law tort remedy for erroneous deprivation, satisfie[d] due process." 494 U.S. at 128. But Respondents do not contend that either remedy is available

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here. Nor can they plausibly do so, while asserting that the law imposes no limits on their authority to arbitrarily re-detain Ms. Albornoz and subject her to mandatory detention. *See* Dkt. 16 at 4–6.

Second, Respondents aver that a pre-deprivation hearing was not required because Ms. Albornoz had, allegedly, violated the conditions of the ATD program. *Id.* at 8. But as courts in this District have found, such "factual disputes as to Petitioner's alleged parole violations should be resolved at a pre-deprivation hearing, rather than resolved after the fact by this Court." *Ramirez Tesara*, 2025 WL 3288295, at *5 (finding that pre-deprivation hearing was required even where the government alleged 40 ATD violations); *see also, e.g.*, *P.T.*, 2025 WL 3294988, at *3 ("The Court finds no reason to assume the accuracy of the Government's records of Petitioner's ATD violations, or to assume that they alone justify detention . . . but any factual dispute about the validity of the violations should have been resolved at a pre-deprivation hearing."). Furthermore, Respondents' claim that Ms. Albornoz was taken into custody due to three incomplete "biometric" check-ins—a weekly requirement to upload a photo on her mobile app—over the entirety of her ATD participation, Dkt. 17 ¶¶ 7–9[2], provides no "arguable basis," Dkt. 16 at 8, for her re-detention without notice or hearing. There is no dispute that Ms. Albornoz affirmatively presented at the ATD office to enroll herself for check-ins following her release, subsequently reported in-person whenever scheduled or requested, had no criminal history and accrued no intervening criminal history, and timely filed an asylum application before the immigration court. *Compare* Dkt. 14 ¶¶ 3–7, 9–10, 12, *with* Dkt. 16 at 2; Dkt. 17 ¶¶ 6, 10–11;

[2] Respondents' submission of deportation officer Enrique Rodriguez's declaration, Dkt. 17, should be given limited weight if even considered by the Court. For example, Ms. Albornoz has provided a first-hand account of her compliance with check-in requirements and close communication with her assigned officer regarding any difficulties with the ATD mobile application. Dkt. 14. In contrast, Mr. Rodriguez's assertions are not based on personal knowledge of Ms. Albornoz's specific circumstances of re-detention. *See* Dkt. 17 ¶ 2; Fed. R. Evid. 602. Instead, his declaration contains inadmissible hearsay in violation of Federal Rule of Evidence 801(c). Moreover, the best evidence rule requires that Respondents produce the "various records and systems maintained by ICE[,]" Dkt. 17 ¶ 2, rather than rely on the officers' summaries of them, *see* Fed. R. Evid. 1002. Yet Respondents have not submitted any primary records showing the claimed ATD violations that allegedly occurred in April, May, and June 2025.

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Dkt. 18-4 at 3. Respondents also do not contest that between July and September 30, 2025, Ms. Albornoz successfully submitted weekly photo check-ins, *see* Dkt. 17 ¶ 9; Dkt. 14 ¶¶ 4–5, nor that at the time of her re-detention in late September 2025, Ms. Albornoz had successfully reported for an in-person ATD appointment only a few days prior, when an ISAP representative expressly informed her that she was fully compliant, *compare* Dkt. 14 ¶ 6 ("At the last [in-person check-in], on or around September 24, 2025, the ISAP representative showed me that all of my check-ins had been completed and I was in compliance with all my requirements."), *with* Dkt. 18-4 at 3 ("On 09/30/2025, Annellycis De Jesus ALBORNOZ Lira was taken into ICE custody after she reported to the Richland ICE office."). In light of Ms. Albornoz's record of compliance, Respondents' allegations of ATD violations appear pretextual.

Lastly, this Court has repeatedly held that "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty." *E.A.T.-B.*, 795 F. Supp. 3d at 1324; *see also* Dkt. 12 ¶ 7 (collecting cases). Respondents' unavailing assertion—that "[w]here detention is mandatory, a pre-detention hearing would serve no purpose"—relies on a single case that is both factually and legally distinguishable. Dkt. 16 at 9 (quoting *Calderon v. Noem*, No. 2:25-cv-2136, 2025 WL 3754042, at *8 (W.D. Wash. Dec. 29, 2025)). In *Calderon*, the petitioner was re-detained and subjected to mandatory detention under 8 U.S.C. § 1226(c)(1)(E) because of a criminal arrest that occurred after being released on bond. In finding that the risk of erroneous deprivation weighed in Respondents' favor, the district court emphasized both "the undisputed applicability of the [Laken Riley Act] . . . at the time of his detention" and "the immediate availability of a *Joseph* hearing to determine whether the LRA actually did apply." *Calderon*, 2025 WL 3754042, at *8. Furthermore, as noted above, this Court and others in this District have repeatedly concluded that a pre-deprivation hearing was required even where Respondents contend the petitioner is subject to mandatory detention under § 1225. *See supra* Section I.

The opportunity for a pre-deprivation hearing remains "the root requirement of the Due Process Clause" where any significant protected interest is at risk. *See Cleveland Bd. of Educ. v.*

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Loudermill, 470 U.S. 532, 542 (1985). Respondents' submissions do not alter this touchstone of procedural due process and cannot overcome the numerous recent decisions holding the same.

C. The government's interest in re-detaining Petitioner without notice and a hearing is low.

Respondents' assertion of a "strong" governmental interest in "re-detaining non-citizens with alleged parole violations," Dkt. 16 at 7, cannot justify their deprivation of Ms. Albornoz's liberty without due process. Courts in this District have now repeatedly recognized that (1) the government's interest in re-detaining non-citizens without procedural safeguards is "low," *e.g.*, *Ramirez Tesara*, 2025 WL 3288295, at *5; *P.T.*, 2025 WL 3294988, at *3; *Francois*, 2026 WL 237514, at *6; (2) any interest in ensuring conditions for release are followed "[is] not threatened if a pre-deprivation is required," *P.T.*, 2025 WL 3294988, at *4; and (3) the "finite" costs of providing such notice and a hearing "are far out-weighed by the risk of erroneous deprivation" of a petitioner's liberty interests, *id.*, at *3. Because Respondents' manner of re-detaining Ms. Albornoz did not comport with procedural due process, she has been unlawfully detained since her re-detentions on September 30, 2025.

III. Petitioner is entitled to an order that prevents re-detention without written notice and a pre-deprivation hearing.

Recognizing the threat of arbitrary re-detention, numerous courts in this District have issued orders enjoining future re-detention without a pre-deprivation hearing in granting writs of habeas to similarly situated petitioners. *See, e.g.*, *E.A. T.-B.*, 795 F. Supp. 3d at 1324; *Shinwari*, 2026 WL 262605; *G.S. v. Hermosillo*, No. 2:25-cv-2704-TSZ, 2026 WL 179962, at *3 (W.D. Wash. Jan. 22, 2026); *Yildirim v. Hermosillo*, No. 2:25-cv-2696-KKE, 2026 WL 100735, at *6 (W.D. Wash. Jan. 15, 2026); *Cabrera Perez*, 2026 WL 100735, at *5; *Osuna Benitez*, 2025 WL 3763932, at *6; *Francois*, 2025 WL 3496557, at *4; *P.T.*, 2025 WL 3294988, at *4; *Ramirez Tesara*, 2025 WL 3288295, at *6; *Y.M.M. v. Wamsley*, No. 2:25-cv-02075, 2025 WL 3101782, at *3 (W.D. Wash. Nov. 6, 2025). This (non-comprehensive) list of cases also underscores that so long as no court order directly prohibits re-detaining an individual, Respondents will continue

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their unlawful practices. *Cf. Nielsen v. Preap*, 586 U.S. 392, 403 (2019) (explaining that a live controversy remained where permanent injunctive relief had not been entered because the detained "individuals faced the threat of re-arrest and mandatory detention" absent such relief).

Furthermore, such an order is well within this Court's authority to issue a writ of habeas corpus, which is, "at its core, an equitable remedy." *Schlup v. Delo*, 513 U.S. 298, 319 (1995); *see also, e.g.*, *Fay v. Noia*, 372 U.S. 391, 492. "Equitable relief" is "characterized by flexibility which enables it to . . . accord all the relief necessary to correct the particular injustices involved." *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 248 (1944); *see also, e.g.*, *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) ("[C]ommon-law habeas corpus was, above all, an adaptable remedy."). The equitable roots of habeas corpus are embodied by "the statutory command that the judge, after granting the writ and holding a hearing of appropriate scope, [shall] 'dispose of the matter as law and justice require.'" *Fay*, 372 U.S. at 492 (quoting 28 U.S.C. § 2243). A habeas court is thus authorized to "fashion appropriate relief other than immediate release," *Preiser v. Rodriguez*, 411 U.S. 475, 487 (1973), in order to ensure an effective remedy for unlawful detention.

CONCLUSION

For all the foregoing reasons, Petitioner respectfully requests that this Court grant a writ of habeas corpus, order her immediate release, and enjoin Respondents from re-detaining her absent notice and a pre-deprivation hearing at which Respondents must justify danger or flight risk by clear and convincing evidence and show that no alternative to detention would mitigate those risks.

Respectfully submitted this 2nd day of February, 2026.

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**I certify that the foregoing contains 3,084 words, in compliance with the Local Civil Rules.*

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