

Magistrate Judge Grady J. Leupold

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Maria LOYA MEDINA

Petitioner,

v.

JULIO HERNANDEZ, *et al.*,

Respondents.

Case No.: 2:26-cv-00772-GJL

**PETITIONER'S SUPPLEMENTAL
BRIEF IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS**

Noted for Consideration: April 17, 2026

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INTRODUCTION

The Court has directed supplemental briefing on whether Petitioner Maria Loya's injuries under Counts One and Three are materially distinct from those redressed by the remedial bond hearing, which Respondents were ordered to provide her pursuant to her membership in the bond-denial class certified in *Rodriguez Vazquez*. Dkt. No. 18 at 2. At issue in this case are the Government's core detention powers. Petitioner challenges DHS's assertion of its detention authority, and its maintenance of that detention. Additionally, she challenges the Immigration Judge's decision in her bond hearing. Both DHS and the Immigration Judge have rendered constitutionally and statutorily inadequate decisions using faulty and incomplete processes.¹

The Court may grant the petition on Count Two—the Immigration Judge's violation of Petitioner's Due Process rights at her hearing—and it may also grant relief under the constitutional and statutory injuries at Counts One and Three. The *Rodriguez Vazquez* class remedy does not address the injuries alleged in these counts, as that redress is specific to the Tacoma Immigration Court's practice of denying bond hearings to individuals like Ms. Loya.² Her injuries under Counts One and Three are materially distinct and require a remedy different from those redressed by the *Rodriguez Vazquez v. Bostock* class remedy, 802 F. Supp. 3d 1297

¹ On January 10, 2026, DHS agents unlawfully detained Ms. Loya in Oregon. She had not been previously detained and then released. Dkt No. 2 at ¶ 17.

² In her answer to the Court's question, Petitioner assumes, as the Court instructs, that the bond hearing "satisfied applicable legal requirements" in the sense that it was a bond hearing conducted by the Tacoma Immigration Court in response to a federal court order. But, as Petitioner explains further below, that minimum level of legality does not conceal the grossly inadequate nature of the proceeding as applied to her, and there is compelling evidence that it was biased against her. Dkt. No. 1 at ¶¶ 4, 6, 67–70, 74–75; Dkt. No. 17 at pp. 3–8, 10–11; Dkt. No. 15-2 at p. 2; Dkt. No. 5-11 at p. 2.

(W.D. Wash. 2025). The appropriate remedy under any of the three counts in her petition is immediate release.

Importantly, Respondents are unlikely to provide a fair hearing at the Tacoma Immigration Court if given another opportunity to do so. “[A]cross the country the integrity of these bond proceedings has now been cast sharply into doubt.” *Garcia Ortiz v. Henkey*, Case No. 1:26-cv-00043-BLW, Dkt. No. 28, 2026 WL 948275, *2 (D. Idaho Apr. 7, 2026). “Put bluntly,” the bond proceedings at the Tacoma Immigration Court are “a sham.” *Id.*

ARGUMENT

I. Under Count One, DHS’s violation of Ms. Loya’s constitutional rights requires a distinct remedy by DHS—immediate release—regardless of the immigration court redetermination process.

Petitioner challenges the failure of the Department of Homeland Security to conduct the constitutionally (and statutorily) required custody determination at the moment she was detained and, in its absence, the maintenance of her detention. This is a challenge which is distinct from the provision of a bond hearing under *Rodriguez-Vazquez*, which addresses the illegal practice or policy of the Tacoma Immigration Court in refusing to hold bond hearings. Count One addresses DHS’s violation of Ms. Loya’s constitutional rights.³ The specific violation here is that DHS failed to conduct an individualized determination as to her risk of flight or danger to the community, let alone afford her an individual notice or opportunity to be heard prior to or contemporaneous with the detention decision. *Cuy Comes v. DeLeon*, No. 25 Civ. 9283 (AT), 2025 WL 3206491, *6 (S.D.N.Y. Nov. 14, 2025) (reasoning that a post-detention bond hearing is an “inadequate substitute” for a deliberative pre-deprivation process); *E.A.T.-B. v. Wamsley*,

³ Count Three addresses, in part, DHS’s violation of Ms. Loya’s statutory rights. Count Three also addresses violations by the Tacoma Immigration Court of her statutory rights for a bond hearing as addressed below.

1 795 F. Supp. 3d 1316, 1323 (W.D. Wash. 2025) (finding that re-detention without reconsidering
 2 flight risk and danger violates due process). The specific remedy for this DHS violation of her
 3 rights must run to *DHS's* illegal action, which is distinct from a remedy that runs to the
 4 immigration court bond system (and the Tacoma Immigration Court's illegal practices). *Cuy*
 5 *Comes v DeLeon*, Case No. 25 Civ. 9283 (AT), 2025 WL 3206491 at *6. The only appropriate
 6 remedy here of DHS's violation is to order the agency to immediately release Ms. Loya.

7 **A. Ms. Loya was denied her constitutional right to a deliberative DHS**
 8 **pre-detention proceeding.**

9 Ms. Loya has a right under the Fifth Amendment's Due Process clause to a "deliberative
 10 process prior to, or contemporaneous with, the initial decision to strip a person of the freedom
 11 that lies at the heart of the Due Process Clause." *Gonzalez v. Joyce*, 2025 WL 2961626, *5
 12 (S.D.N.Y. 2025). This is separate and apart from the immigration judge redetermination process.
 13 *Cuy Comes*, Case No. 25 Civ. 9283 (AT), 2025 WL 3206491 at *4-5.

14 Here, as the Respondents' own documentation demonstrates, ICE has detained and
 15 maintained detention of Ms. Loya under 8 U.S.C. § 1226(a). Dkt. No. 5-7 at p. 5. On January 10,
 16 2026, at 11:35 AM at the Portland ICE office, "[p]ursuant to the authority contained in section
 17 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations,"
 18 DHS agent Anna Aegerter, "determined that, pending a final administrative determination in
 19 [Ms. Loya's] case, [Ms. Loya] will be Detained by the Department of Homeland Security." Dkt.
 20 No. 5-3 at p. 2. Likewise, on that same day, one "J. 4173 RAMIREZ – SDDO" invoked "sections
 21 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal
 22 Regulations" to command that Ms. Loya be "arrest[ed] and tak[en] into custody for removal
 23 proceedings under the Immigration and Nationality Act[.]" Dkt. No. 5-5 at 2; *Galvez v. Francis*,
 Case No. 26 CIV. 161 (AT), 2026 WL 84493 at *2 (S.D.N.Y. Jan. 12, 2026) (reviewing DHS

1 documents to determine original custody authority); 8 U.S.C. § 1226(a) (providing that on a
2 warrant issued by the Attorney General, DHS may invoke discretionary detention).

3 Ms. Loya has a constitutional right that requires *DHS* to make a fulsome custody decision
4 within 48 hours of arrest. 8 C.F.R. § 287.3(d) (imposing on DHS the obligation to make a custody
5 determination “within 48 hours of the arrest”). There is an ongoing violation of this constitutional
6 right that stems from the failure to engage in the deliberative process because detention must
7 always be justified by a constitutionally permissible reason. *Zadvydas v. Davis*, 533 U.S. 678,
8 690-92 (2001); *Demore v. Kim*, 538 U.S. 510, 527 (2003). Under the Supreme Court’s decision
9 in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the process due to Ms. Loya by DHS prior to or
10 contemporaneous with the DHS decision to take her into custody requires DHS to provide: (1) a
11 reasoned decision regarding flight risk and dangerousness based on reliable evidence, (2)
12 meaningful notice to Ms. Loya of its findings and reasoning, and (3) a meaningful opportunity
13 for Ms. Loya to be heard. *Cuy Comes*, Case No. 25 Civ. 9283 (AT), 2025 WL 3206491 at *5.
14 This is because the “risk of erroneous deprivation [of liberty] is significant.” *Id.* “The purpose of
15 requiring an exercise of discretion *prior to* the decision to detain a noncitizen who is not subject
16 to mandatory detention is to prevent an erroneous deprivation of liberty.” *Lopez Benitez v.*
17 *Francis*, 795 F. Supp. 3d 475, 495 (S.D.N.Y. Aug. 13, 2025) (emphasis added).

18 The record plainly shows that there was *no* valid exercise of DHS’s discretionary
19 detention authority consistent with due process because there is *nothing* to suggest that DHS
20 exercised any discretion at all. Here, DHS’s own documents and the undisputed facts show that
21 DHS’s custody determination contains no findings of fact and no reasoned analysis. Dkt. No. 5-
22 3 at p. 2. The DHS decision is merely a checkbox form. *Id.* There is no accompanying
23 memorandum, separate set of factual findings, or even the hint of a reasoned analysis. *Id.* DHS’s

1 complete abdication of its constitutional obligation here is so strikingly blatant because there is,
 2 in fact, no evidence suggesting Ms. Loya is either a flight risk or danger to the community. Dkt.
 3 No. 2. Indeed, the undisputed facts here show that “ICE summarily detained [Ms. Loya] without
 4 making an individualized determination as to [her] risk of flight or [her] danger to the
 5 community, let alone affording [her] notice or opportunity to be heard.” *Cuy Comes*, Case No.
 6 25 Civ. 9283 (AT), 2025 WL 3206491 at *5.

7 **B. *Rodriguez Vazquez* provides a remedy for the Tacoma Immigration**
 8 **Court’s illegal policy of refusing bond hearings, not for DHS’s**
 9 **violations.**

10 In this habeas petition, Count One is a challenge to the failure of DHS to conduct the
 11 constitutionally required custody determination, not to the Tacoma Immigration Court’s practice
 12 or policy of refusing to hold bond hearings. In *Rodriguez Vazquez*, a class of individuals detained
 13 at the Northwest Immigrant Processing Center challenged the Tacoma Immigration Court’s
 14 practice or policy of denying bond hearings to noncitizens without lawful status who (1) have
 15 entered or will enter the United States without inspection, (2) are not apprehended upon arrival,
 16 (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231
 17 at the time the noncitizen is scheduled for or requests a bond hearing. *Rodriguez Vazquez v.*
 18 *Bostock*, 349 F.R.D. 333, 365 (W.D. Wash. May 2, 2025) (order granting in part class
 19 certification for the Bond Denial Class). The Bond Denial Class members in *Rodriguez Vazquez*
 20 “all suffer[ed] from the same injury caused by the Tacoma Immigration Court’s policy: the denial
 21 of an individualized custody determination by the IJ.” *Id.* at 353. After additional proceedings,
 22 the Court declared that the practice or policy of the Tacoma Immigration Court to deny a bond
 23 hearing to the Bond Denial Class on the basis of 8 U.S.C. § 1225(b)(2) was unlawful. *Rodriguez*
Vazquez, 802 F. Supp. 3d at 1336. Notably, in the named plaintiff’s individual challenge to the

1 denial of his bond hearing under the Tacoma Immigration Court's practice or policy, the Court
2 ordered a bond hearing, enjoined the defendants (the same Respondents sued here for all
3 functional purposes), and ordered that the Tacoma Immigration Court must record the bond
4 hearing because that was the remedy that ran to the violation. *Rodriguez Vazquez v Bostock*, 779
5 F. Supp. 3d 1239, 1263 (W.D. Wash. April 24, 2025).

6 Under the Tacoma Immigration Court's unlawful practice or policy of denying bond
7 hearings, Ms. Loya could not obtain a custody redetermination hearing of DHS's no-release
8 decision, so she filed her first Petition for Habeas Corpus seeking release or a bond hearing. Dkt
9 No. 5-6. She sued Respondents under 8 U.S.C. § 1226(a) as a member of the *Rodriguez Vazquez*
10 Bond Denial Class. *Id* at pp. 8-9. Respondents did not oppose Ms. Loya "being considered a
11 member of the *Rodriguez Vazquez* Bond Denial Class for the purposes of this habeas case." Dkt.
12 No. 5-7 at p. 4. In its decision granting the first habeas petition, the District Court "incorporate[d]
13 the reasoning of *Rodriguez Vazquez* and [found] that Loya-Medina [was] subject to discretionary
14 detention under § 1226(a)" and that "her mandatory detention under § 1225(b) violate[d] the
15 INA, entitling her to habeas relief." *Id.* at p. 5. The District Court then granted the petition and
16 ordered the specific relief of release or "a bond hearing under 8 U.S.C. § 1226(a)." *Id.*
17 Respondents chose to provide her a bond hearing before the Tacoma Immigration Court.

18 **C. For a DHS-violation of her rights, Ms. Loya is entitled to a DHS-**
19 **specific remedy of immediate release.**

20 The remedy under Count One for DHS's ongoing violation of Ms. Loya's constitutional
21 rights is to order DHS to immediately release her. Ms. Loya is challenging the distinct violation
22 of her constitutional rights by DHS which requires a remedy distinct from the Tacoma
23 Immigration Court, and particular to DHS's illegality and its grossly inadequate procedures with
respect to her. "Across remedial contexts, the nature of the violation determines the scope of the

remedy.” *Office of United States Trustee v. John Q. Hammons Fall 2006, LLC*, 602 U.S. 487, 494 (2024) (cleaned up); *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 680 (9th Cir. 2021). “Where relief can be structured on an individual basis, it must be narrowly tailored to remedy the specific harm shown[.]” *Id.* (citation omitted). After all, the basis of Count One is DHS’s failure to conduct the required pre-deprivation determination to detain Ms. Loya, and its ongoing decision to detain her without providing an initial custody determination hearing. Dkt. No. 1 at pp. 21-22. Unlike the Bond Denial Class remedy in *Rodriguez Vazquez*, Count One does not challenge or seek a remedy for the Tacoma Immigration Court’s practice or policy. *Id.*

In a case such as this, the remedy for DHS’s violation of Ms. Loya’s constitutional rights is to order DHS to immediately release her. The “traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 484, 484 (1973); *Burnett v. Lampert*, 432 F.3d 996, 999 (9th Cir. 2005) (acknowledging that federal courts have “a fair amount of flexibility” in habeas cases to discern an appropriate remedy to meet the specific constitutional defects found in a given case before them); *Cuy Comes*, Case No. 25 Civ. 9283 (AT), 2025 WL 3206491 at *6; *Galvez*, Case No. 26 CIV. 161 (AT), 2026 WL 84493 at *3. A bond determination hearing is an inadequate remedy for a DHS violation of Ms. Loya’s constitutional rights. *Cuy Comes*, Case No. 25 Civ. 9283 (AT), 2025 WL 3206491 at *6 (“suggestion that any constitutional violation could be cured” by a “custody re-determination hearing before an immigration judge does not hold water.”). A bond hearing as a remedy for the DHS violation “is an inadequate substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.” *Id.* (cleaned up, citing *Lopez v. Sessions*, 18 Civ. 4189 (RWS), 2018 WL 2932726, at *15 (S.D.N.Y. June 12, 2018)).

1 Accordingly, Count One provides a means for Ms. Loya to seek redress for DHS's
2 violation of her constitutional rights. The remedy is different than the remedy provided by
3 *Rodriguez Vazquez*. The remedy for the DHS violation of Ms. Loya's constitutional rights is for
4 DHS to immediately release her.⁴

5 **II. Under Count Three, the Immigration Judge's violation of Ms. Loya's**
6 **statutory rights to a bond hearing requires a remedy.**

7 Under Count Three, Ms. Loya seeks a remedy for her particular bond hearing and the
8 failure of this particular Immigration Judge to follow the law. This is distinct from *Rodriguez*
9 *Vazquez*, which provided a remedy for the Tacoma Immigration Court's practice or policy of
10 refusing to hold bond hearings. Much in the way that this particular fifteen-minute unrecorded
11 hearing producing only a checkbox order, without a legal standard, factual findings, or a legal
12 analysis does not satisfy due process, it also does not satisfy 8 U.S.C. § 1226(a). Dkt. 2 at ¶ 18;
13 Dkt. No. 5-11 at p. 2; Dkt. No. 15-1 at p. 2. Respondents have failed to show—in all the months
14 that Petitioner has been held in their custody—any facts or admissible evidence that Petitioner
15 is a flight risk or danger to the community. An Immigration Judge who provides no
16 contemporaneous reasoning and fails to conduct a flight risk analysis has abused his discretion.
17 *Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024); *Matter of Guerra*, 24 I&N Dec. 37, 40
18 (BIA 2006). Civil immigration detention must be non-punitive and bear a reasonable relation to
19 its purpose of ensuring compliance with immigration proceedings and preventing danger to the
20 community. *Zadvydas*, 533 U.S. at 690-92.⁵

21 ⁴ Regardless of her membership in the Bond Denial Class, and regardless of the outcome of
22 *Rodriguez Vazquez* litigation, the violation of her independent constitutional rights by DHS
23 requires redress.

⁵ Count Three also challenges the DHS statutory violations in its failure to conduct an adequate
pre-deprivation inquiry before taking her into custody. The remedy runs identical to the remedy
for the constitutional violation under Count One: immediate release.

1 The remedy for Count Three's violation of her statutory right to a bond hearing merges
2 with Count Two: immediate release. Two recent decisions from this district confirm that the
3 Immigration Judge's reasons for denying Ms. Loya's bond are constitutionally insufficient and
4 merit release. In *Lima Soriano*, the Immigration Judge denied bond based on (1) a decades-old
5 immigration violation, (2) the use of a false Social Security number to work, and (3) the
6 perceived weakness of the petitioner's claims for relief. *Lima Soriano v. Hernandez*, Case No.
7 2:26-cv-00900-DGE, Dkt. 10 at pp. 9–11 (W.D. Wash. Apr. 10, 2026). The court held that each
8 of those justifications, without more, could not support a flight-risk finding. *Id.* The same three
9 factors appear in Ms. Loya's case. In his post-hoc memorandum, the Immigration Judge relied
10 on her 1998 voluntary return and 2005 entry without inspection, her use of a false Social Security
11 number to work, and her limited relief options (cancellation of removal only) to find she was a
12 flight risk and ultimately deny bond. Dkt. No. 5-14 at pp. 4–6; Dkt. No. 15-2 at pp. 4–6. As in
13 *Lima Soriano*, the Immigration Judge offered no explanation as to *why* these factors, despite Ms.
14 Loya's 21 years of continuous residence, stable employment, family ties, and lack of criminal
15 history, would make her likely to flee. Dkt. No. 5-9 at pp. 2–67. *Vasquez Lopez* confirms the
16 same principle; that is, where an Immigration Judge issues a conclusory order, "[t]he Court is
17 left to speculate concerning how the immigration judge viewed the evidence in light of the
18 applicable factors [and] must conclude that the immigration judge failed to do so, which
19 constitutes an abuse of discretion." *Vasquez Lopez v. Hernandez*, Case No. 2:26-cv-00775-TSZ,
20 Dkt. No. 10 at *9 (W.D. Wash. Apr. 13, 2026). Respondent's checkbox order and post-hoc
21 memorandum leave this Court in exactly that position—left to speculate about how the
22 Immigration Judge viewed the evidence in light of the applicable factors.

23 **III. Immediate release is the only adequate remedy because the Tacoma
Immigration Court is unlikely to provide a fair hearing.**

1 The remedy for Ms. Loya must be immediate release because it is the only remedy that
2 redresses the harms caused by DHS (Count One, Count Three) and the Tacoma Immigration
3 Court is unlikely to provide a fair hearing (Count Two, Count Three). A federal court reviewing
4 an analogous habeas petition granted immediate release after finding the Tacoma Immigration
5 Court's bond hearing was a "sham." *Garcia Ortiz*, Case No. 1:26-cv-00043-BLW, 2026 WL
6 948275 at *2. Indeed, federal courts across the country have documented a systemic pattern of
7 immigration judges denying bond "regardless of the weight of the evidence." *Id.* at *4. In *Garcia*
8 *Ortiz*, the United States District Court for the District of Idaho cited cases from the Eastern and
9 Southern District Courts of Virginia showing that "immigration judges who provide neutral
10 adjudications have been removed, and bond is systematically denied after a pro forma hearing
11 with a predetermined outcome" and noting judges have "abruptly and uniformly ceased"
12 granting bond in post-habeas cases; and the District of New Jersey observing "an established
13 pattern of Respondents violating judicial orders." *Id.*

14 The evidence in this case bears this out. Like in *Garcia Ortiz*, the Tacoma Immigration
15 Court held a bond hearing for Ms. Loya pursuant to a federal court order. *Id.* at *1. Like *Garcia*
16 *Ortiz*, Ms. Loya was represented by counsel at her hearing and entered evidence demonstrating
17 eligibility for bond, "including the birth certificates of [her] U.S. citizen children and numerous
18 support letters from community members." *Id.* Like *Garcia Ortiz*, the immigration judge denied
19 bond finding Ms. Loya to be a flight risk and "did not create a record of the proceeding except a
20 generic order denying bond." *Id.* The same "concerning irregularit[ies]" in *Garcia Ortiz* occurred
21 here in Ms. Loya's case. *Id.* at *3. The immigration judge developed no record and issued no
22 reasoned decision. Dkt. Nos. 5-10; 5-11. This "lack of record keeping further calls the fairness
23 of the proceedings into question." *Garcia Ortiz*, Case No. 1:26-cv-00043-BLW, 2026 WL

1 948275 at *4. And, like *Garcia Ortiz*, “it is clear that [Ms. Loya] did not receive an individualized
 2 hearing[.]” *Id.*

3 This is in keeping with the anti-rule-of-law approach of the Trump administration toward
 4 the immigration court system. *See, e.g.,* Nicholas Nehamas, et al., *How Trump Purged*
 5 *Immigration Judges to Speed Up Deportations*, NY Times (April 9, 2026), available at
 6 <https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html>
 7 (last visited Apr. 10, 2026) (describing how the Chief Immigration Judge receives daily reports
 8 about bond rulings and “[o]ne current judge said the ‘pressure to deny bond is overt.’ The judge
 9 said that there was a requirement to inform a supervisor every time bond was granted,
 10 underscoring how closely the administration was monitoring decisions.”); U.S. Dep’t of Justice,
 11 *YOU BE THE JUDGE*, <https://perma.cc/FS3J-SVGD> (last visited April 11, 2026) (in recruitment
 12 ad for immigration judges for the Tacoma Immigration Court: “Help write the next chapter of
 13 America. Apply today to become a *deportation judge* and you may be entitled to these benefits.”)
 14 (italics added); Jason A. Cade, *Welcome to the Trump Administration’s Board of Immigration*
 15 *Appeals: The Immigrant Always Loses*, 135 Yale L.J.F. (forthcoming 2026),
 16 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6506380 (“The Trump administration has
 17 used the Attorney General’s self-referral power and a reconstituted, ideologically aligned Board
 18 to issue 91 precedential decisions, at more than three times the historical pace, in its first fourteen
 19 months. The goal is to engineer a body of precedents that reliably produces one result:
 20 removal.”).⁶

21
 22 ⁶ A bond hearing or order to DHS to conduct a new determination is wholly inadequate to
 23 resolving the months-long injuries of the violations of Ms. Loya’s rights. DHS and EOIR are not
 even trying to follow the law; they are actively seeking to undermine it. If the Court, nonetheless,
 orders a new hearing or that DHS make a new decision, it must also order her immediate release
 in advance of a new determination. The Court should order that any new determination must

1 The Due Process Clause requires courts to balance three factors: the private interest at
 2 stake, the risk of erroneous deprivation, and the government's interest. *Mathews*, 424 U.S. at 335.
 3 All three point toward release in Ms. Loya's case. With respect to private interest, Ms. Loya's
 4 freedom from detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S.
 5 507, 529 (2004). The weight of that interest is measured by the concrete, ongoing harm her
 6 detention has caused. *Mathews*, 424 U.S. at 335. Petitioner's husband suffered a stroke in
 7 December 2025 and he requires ongoing care, which she cannot provide from detention. Dkt. 2
 8 at ¶¶ 3–6. Her 14-year-old daughter has been diagnosed with depression and refuses to eat. Dkt.
 9 No. 3 at ¶ 3. Her 16-year-old son has become a de facto parent to his younger sibling while
 10 managing his father's daily needs. Dkt. No. 2 at ¶¶ 4–5; Dkt. No. 3 at ¶¶ 8–12. In the context of
 11 preliminary injunctive relief, courts have observed that such family separation imposes

12
 13 require the Government to prove by clear and convincing evidence that Ms. Loya is a flight risk
 14 or danger to the community, or else release her. *Santos Orozco Valle et al. v. Scott*, Case 2:25-
 15 cv-02429-TLF, Dkt. No. 15 at 17 (W.D. Wash. Jan. 5, 2026) (ordering government to "provide
 16 petitioner a hearing in which the Government bears the burden of proof, under *Singh v. Holder*,
 17 to justify immigration re-detention by clear and convincing evidence"). The Court should instruct
 18 the Immigration Judge to hold the hearing on the record with a recording and transcription. The
 19 Petitioner must be afforded the opportunity to present evidence, including witness testimony,
 20 and the Immigration Judge must issue a contemporaneous reasoned decision that, at a minimum,
 21 requires the judge to articulate and apply the clear and convincing evidence standard as to each
 22 *Matter of Guerra* factor based on admissible, reliable evidence with a rational connection
 23 between any admissible, reliable evidence to the relevant *Guerra* factor. See e.g., *Lima Soriano*,
 2:26-cv-00900-DGE, Dkt. No. 10 at 8-9 (itemizing failure of Tacoma Immigration Court to
 appropriately apply the legal standard and ordering immediate release); *M-Z-H- v. Hermosillo*,
 2:25-cv-02523-KKE, Dkt. No. 16 at 7-9 (W.D. Wash. Dec. 23, 2025) (finding government
 evidence for flight risk unreliable and inadmissible); *Barraza Laguna v. Hernandez*, 2:26-cv-
 00864-GJL, Dkt. No. 15 at 10 (W.D. Wash. April 9, 2026) (criticizing government for "mak[ing]
 no viable factual or evidentiary submissions"). The Court should further instruct that the
 Immigration Judge *may not* rely on "considerations that would lead to an automatic denial of
 bond in all cases under 8 U.S.C. § 1226(a)." *Juarez Vigil v. Bondi*, 1:26-cv-00168-MSN-WBP,
 Dkt. No. 26 at 1 (E.D. Va. April 8, 2026) (admonishing immigration judge because the IJ "found
 Petitioner was a risk of flight due to the fact that, among other things, [petitioner] entered the
 United States unlawfully and worked without authorization.").

1 irreparable harm. *See Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017) (noting the
2 “collateral harms to children of detainees whose parents are detained”); *Pinchi v. Noem*, 792 F.
3 Supp. 3d 1025, 1037 (N.D. Cal. 2025) (explaining that detention that severs a mother from her
4 family causes an “immense burden” and “grave and irreparable” harm). Ms. Loya’s voluntary
5 departure deadline has passed, and her removal order may become final before any
6 administrative review concludes. Hubbard Decl., Dkt. 16 at ¶ 19. The average BIA processing
7 time for bond appeals is 204 days. *Rodriguez v. Bostock*, 802 F. Supp. 3d at 1307. Under the first
8 *Mathews* factor, the fundamental liberty interest and ongoing harm to Ms. Loya and her family
9 require the Government to provide the highest level of procedural protection.

10 Regarding risk of erroneous deprivation, as demonstrated above in Sections I and II, DHS
11 made no individualized custody determination at arrest and the Immigration Judge’s hearing was
12 constitutionally deficient. Such a record establishes an unacceptably high risk that Ms. Loya has
13 been erroneously deprived of her liberty, *Mathews*, 424 U.S. at 335.

14 Finally, Respondents’ legitimate interest in ensuring Ms. Loya’s appearance is fully
15 served by supervised release. Petitioner has 21 years of continuous residence, a fixed address,
16 no criminal history, strong family ties, and a husband and children who depend on her care. Dkt.
17 No. 2 at ¶¶ 2, 7, 24. Dkt. No. 5-9 at pp. 2–67. A government that fails to follow its own
18 regulations has no legitimate interest in continued detention. *Caisa Telenchana v. Hermosillo*,
19 Case No. 2:26-CV-00363-GJL, 2026 WL 696806, at *12 (W.D. Wash. Mar. 12, 2026) (holding
20 that the government’s interest in detention is minimal where the government “is required to
21 follow its own regulations” and failed to do so). Here DHS violated 8 C.F.R. § 1236.1(c)(8) at
22 the point of Petitioner’s arrest, and the Immigration Judge failed to apply the *Matter of Guerra*
23 framework at her hearing. The government cannot assert a legitimate interest premised on its

own regulatory failures. This Court applied the same principle in *Caisa Telenchana*, concluding that all three *Mathews* factors favored petitioners where the Government failed to follow its own regulations in effecting detention. Case No. 2:26-CV-00363-GJL, 2026 WL 696806, at *12. “Given the constitutional defects underlying [her] detention without any meaningful individualized review,” release under reasonable conditions of supervision is the only remedy that will make Ms. Loya whole. *Id.* at *13.

CONCLUSION

The Court should grant the petition and order Ms. Loya’s immediate release.

Dated: April 14, 2026

s/ Stephen W Manning

Stephen W Manning, OSB No. 013373*
stephen@innovationlawlab.org

s/ Matt Adams

Matt Adams, WSBA No. 28287
matt@nwirp.org

s/ Jose G. Miranda

Jose G. Miranda, NYSB No. 5714969*
jmiranda@innovationlawlab.org

NORTHWEST IMMIGRANT
RIGHTS PROJECT
615 Second Ave., Suite 400
Seattle, WA 98104
(206) 957-8611

INNOVATION LAW LAB
333 SW 5th Avenue
Suite 200
Portland OR 97204
(503) 922-3042

Attorneys for Ms. Loya

**Appearing pro hac vice*