

Honorable Theresa L. Fricke

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

Jefersson CASTILLO SANCHEZ, et al.,

Petitioners,

v.

Julio HERNANDEZ, et al.,

Respondents.

Case No. 2:26-cv-01003-TLF

PETITIONERS' TRAVERSE

Noted for Consideration:
April 13, 2026

INTRODUCTION

Courts in this District have repeatedly recognized that the Due Process Clause requires Respondents to afford notice and a pre-deprivation hearing before re-detaining individuals previously released by DHS. Respondents acknowledge that this Court will “likely find all Petitioners’ re-detentions, except for Petitioner Ivanov, required notice and pre-deprivation hearings to comport with procedural due process.” Dkt. 13 at 8 (citing *Bealter Reyes v. Hermosillo*, No. 2:26-cv-00270-TLF, 2026 WL 507678 (W.D. Wash. Feb. 24, 2026)). In *Bealter Reyes*, this Court found, with respect to petitioners Ponce and Nunez, that all three *Mathews* factors weighed in the petitioners’ favor and that a post-deprivation bond hearing was an inadequate procedural safeguard. *Bealter Reyes*, 2026 WL 507678, at *3–4. The Court should reach the same conclusion here. Respondents merely cite to the arguments presented in *Bealter Reyes* and offer no factual or legal basis for departing from this Court’s prior reasoning or from

1 the broader weight of authority in this District, rooted in well-established due process principles.
2 Dkt. 13 at 8.

3 The Court should reach the same conclusion with respect to Petitioner Ivanov, who was
4 not “convicted of a crime” while on release in the community. *Id.* Mr. Ivanov was convicted of
5 operating without a valid license, Wis. Stat. § 343.05(3)(a), which is a civil forfeiture offense and
6 not a criminal offense under Wisconsin law. Mr. Ivanov is therefore not similarly situated to Ms.
7 Bealter Reyes, who had a pending criminal charge for felony theft in Oregon at the time of her
8 re-detention. *See Bealter Reyes*, 2026 WL 507678, at *4–5. Moreover, even if operating without
9 a valid license were a criminal offense, it would not suggest that he is a danger to the community
10 or a flight risk.

11 Accordingly, the Court should grant this petition and order Petitioners’ immediate release.
12 The Court should further enjoin Respondents from re-detaining them absent adequate notice and
13 a pre-deprivation hearing before a neutral adjudicator, at which Respondents bear the burden of
14 proving by clear and convincing evidence that each Petitioner’s re-detention during removal
15 proceedings is justified.

16 ARGUMENT

17 Courts in this District have now repeatedly and consistently recognized that procedural
18 due process does not permit DHS to re-detain individuals who were previously released from
19 DHS custody—whether on an order of release on recognizance (OREC) or parole under 8 U.S.C.
20 § 1182(d)(5)—without first providing adequate written notice and a hearing before a neutral
21 decisionmaker. *E.g., Caisa Telenchana v. Hermosillo*, No. 2:26-cv-00363-GJL, 2026 WL
22 696806, at *2–12 (W.D. Wash. Mar. 12, 2026) (granting habeas petition and concluding that all
23 twelve petitioners—eight previously released on OREC, three previously released on parole, and
24 one from Office of Refugee Resettlement custody—had each been unlawfully re-detained
25 without notice or a hearing); *Arroyo Silva v. Hermosillo*, No. 2:26-cv-00179-GJL, 2026 WL
26 445003, at *5 (W.D. Wash. Feb. 17, 2026) (explaining that “the central issue here is *the process*
27 by which re-detention occurred, not whether it was warranted” and ordering immediate release

1 for two petitioners previously released on OREC, two previously released on parole, and one
2 previously released on bond); *see also* Dkt. 1 ¶ 5 (collecting cases).

3 Because Petitioners present substantially similar claims that they were re-detained in
4 violation of procedural due process, the Court should grant their petition.

5 **I. The *Mathews v. Eldridge* factors demonstrate that Petitioners' due process rights**
6 **were violated.**

7 Respondents aver that "due process is flexible" and that the Court must examine "each
8 noncitizen's re-detention independently." Dkt. 13 at 1. But Respondents have not pointed the
9 Court to anything that materially distinguishes Petitioners' claims from this Court's reasoning in
10 *Bealter Reyes* or the District's consistent and voluminous caselaw on the question presented
11 here. Beyond asserting that Petitioner Ivanov "committed a crime after his initial release," *id.* at
12 8, Respondents' justifications for re-detention rest not on petitioner-specific facts but on
13 assertions of statutory authority under § 1225(b) and general policy arguments about the scope of
14 mandatory detention, *see id.* at 3–6. This Court already rejected those arguments in *Bealter*
15 *Reyes*, holding that even if a statute "permits government detention of an individual, the Due
16 Process Clause may provide procedural protections not found in the statute." *Bealter Reyes*, 2026
17 WL 507678, at *3. Further, Respondents do not meaningfully address the *Mathews v. Eldridge*
18 factors beyond "respectfully disagree[ing]" with this Court's reasoning in *Bealter Reyes*. *See*
19 Dkt. 13 at 8 (incorporating by reference their arguments in that case).

20 Under *Mathews*, the Court considers (1) the private interest affected, (2) the risk of
21 erroneous deprivation through the procedures used and the probable value of additional
22 safeguards, and (3) the government's interest. 424 U.S. 319, 335 (1976). All three factors favor
23 Petitioners.

24 **A. Petitioners have a weighty interest in their continued liberty.**

25 The interest in freedom from physical confinement is "the most elemental of liberty
26 interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also, e.g., Ledesma Gonzalez v.*
27 *Bostock*, 808 F. Supp. 3d 1189, 1202 (W.D. Wash. 2025) (finding that the petitioner's "liberty

interest . . . is a fundamental interest that must be accorded significant weight”). Furthermore, “[t]he Supreme Court has repeatedly recognized that individuals who have been released from custody, even where such release is conditional, have a liberty interest in their continued liberty.” *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (collecting cases). This interest is not negated by a person’s status as a noncitizen. *Kumar v. Wamsley*, No. 2:25-cv-01772-JHC-BAT, 2025 WL 2677089, at *3 (W.D. Wash. Sept. 17, 2025); *see also, e.g., Lucena-Ojeda v. Noem*, No. 2:26-CV-00085-BAT, 2026 WL 279353, at *2 (W.D. Wash. Feb. 3, 2026) (“[T]he Court rejects the notion that petitioner’s weighty liberty interest is greatly diminished solely because he is a noncitizen in immigration proceedings.”).

Here, Respondents do not argue that any Petitioner’s liberty interest is diminished. Each Petitioner was released from immigration custody—on either parole or OREC—based on a determination that they were neither a danger to the community nor a flight risk.¹ Each thereafter built a life in the United States: working, attending court hearings, pursuing applications for relief, and complying with conditions of release to the best of their abilities. *See generally* Dkt. 2 (Castillo Sanchez Decl.); Dkt. 3 (Diallo Decl.); Dkt. 4 (Djalo Decl.); Dkt. 5 (Hernandez Alarcon Decl.); Dkt. 6 (Ivanov Decl.); Dkt. 7 (Serrano Rodriguez Decl.); Dkt. 8 (Suarez Mora Decl.); Dkt. 9 (Villanueva Rios Decl.). As courts have recognized, such ties strengthen a petitioner’s due process protections. *See, e.g., Lakshya Rana v. Bondi*, No. 2:26-cv-00244-TL, 2026 WL 472800, at *4 (W.D. Wash. Feb. 19, 2026) (“When Petitioner was released on his own recognizance, he acquired a liberty interest—one that Respondents concede—and that interest entitles him to Due Process, which Respondents have failed to give.” (internal citation omitted)); *Tsyamba v. Hermosillo*, No. 2:25-cv-02623-GJL, 2026 WL 237514, at *4 (W.D. Wash. Jan. 29, 2026) (explaining that a petitioner’s initial release “allowed him to gain[] a foothold in the United

¹ Under the applicable regulations, release on parole requires DHS to determine that the individual “present[s] neither a security risk nor a risk of absconding.” 8 C.F.R. § 212.5(b). Similarly, release on OREC requires a determination that the individual “would not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8).

1 States and develop ties in this country, thereby strengthening his constitutional right to due
 2 process” (alteration in original) (quoting *Grajeda Velazquez v. Wamsley*, No. 2:25-CV-0264-JHC,
 3 2026 WL 84223, at *4 (W.D. Wash. Jan. 12, 2026))). The first factor strongly favors Petitioners.

4 **B. The risk of erroneous deprivation absent a pre-deprivation hearing is high.**

5 The Court should continue to reject Respondents’ misplaced reliance on *Zinerman v.*
 6 *Burch*, 494 U.S. 113, 127 (1990) and *Martinez Hernandez v. Andrews*, 2025 WL 2495767 (E.D.
 7 Cal. Aug. 27, 2025). *See Bealter Reyes*, 2026 WL 507678, at *3 (declining to adopt
 8 “Respondent’s argument that [an] alleged ATD violation necessarily precludes a pre-deprivation
 9 hearing” (citations omitted)); *see Sarwari*, 2026 WL 279968, at *8 (noting that “Respondents’
 10 treatment of [both cases] . . . falls short of the basic level of accuracy that the Court expects from
 11 litigations who come before it”). Courts in this district continue to reject Respondents’ argument,
 12 including in cases where the petitioner was alleged to have a pending criminal charge. *See, e.g.,*
 13 *Musaev v. Hermosillo*, No. 2:26-cv-0522-RAJ, 2026 WL 925611, at *8 (W.D. Wash. Apr. 6,
 14 2026) (“Specifically, the Court concludes that a non-citizen’s re-detention by immigration
 15 authorities does not qualify as a ‘special case,’ as contemplated by the ‘Parratt rule,’ wherein
 16 post-deprivation remedies provide all the process that is due because ‘the value of predeprivation
 17 safeguards [] is negligible in preventing the kind of deprivation at issue.’” (citation omitted));
 18 *Bravo-Zambrano v. Bondi*, No. 2:26-cv-00167-JLR, 2026 WL 879245, at *3 (W.D. Wash. Mar.
 19 31, 2026) (similar); *Singh v. Noem*, 2026 WL 879247, at *4 (W.D. Wash. Mar. 31, 2026) (citing
 20 *Zinerman* only for the proposition that a pre-deprivation hearing is required despite “Petitioner’s
 21 pending misdemeanor charge”).

22 Respondents’ sole argument regarding an individual petitioner is that Mr. Ivanov should
 23 not be entitled to a pre-deprivation hearing because he “was convicted of a crime after his initial
 24 release.” Dkt. 13 at 8. In support of this argument, Respondents rely on a declaration by ICE
 25 Officer Robert Andron, Jr., Dkt. 13-5 ¶ 6, and provide no additional documents. However,
 26 publicly available information on the Wisconsin Court System website confirms that Mr.
 27 Ivanov’s charge was amended on May 2, 2025, to operating without a valid license, Wis. Stat.

§ 343.05(3)(a), a civil forfeiture offense that carries a maximum penalty of a \$200 forfeiture for a first offense. *See* Ex. A, Docket. As noted on the court’s summary of the disposition, this is not a criminal offense. Ex. B; *see also* Wis. Stat. § 939.12 (“Conduct punishable only by a forfeiture is not a crime.”); *United States v. Graap*, 754 F. App’x 483, 484 (7th Cir. 2019) (observing that “unlicensed driving in Wisconsin may yield only forfeiture of up to \$200 for a first offense”). Accordingly, Mr. Ivanov’s situation is distinguishable from that of the lead petitioner in *Bealter Reyes*, who had a pending felony charge at the time of re-detention. *Bealter Reyes*, 2026 WL 507678, at *1. Instead, he is similarly situated to other habeas petitioners ordered released who had criminal charges dismissed. *See, e.g., Barraza Laguna v. Hernandez*, No. 2:26-cv-00864-GJL, 2026 WL 962127, at *2 (W.D. Wash. Apr. 9, 2026) (Petitioner Dauzhanok ordered released despite “brief arrest resulting in no charges or conviction”); *Colina Castro v. Hermosillo*, No. 2:26-cv-00662, 2026 WL 817388, at *3 (W.D. Wash. Mar. 25, 2026) (Petitioner Berdin ordered released despite dismissed charge of felony harassment – domestic violence); *Espinoza Palacios v. Hermosillo*, No. 2:26-cv-00491-JNW, 2026 WL 686138, at *5 (W.D. Wash. Mar. 11, 2026) (Petitioner Sharp Perez ordered release despite dismissed assault charge); *Bohorquez v. Hermosillo*, No. 2:26-cv-00573-MLP, 2026 WL 632668, at *1 (W.D. Wash. Mar. 6, 2026) (Petitioner Bohorquez ordered released despite dismissed vehicular assault charge). He is also similarly situated to other petitioners who may have incurred a minor traffic infraction or a juvenile adjudication. *E.g., Abdelmasseh v. Hermosillo*, No. 2:26-cv-00730-MLP (W.D. Wash.), Dkt. 17 at 16–17 (Petitioner Garcia ordered released despite juvenile adjudication for second-degree robbery in Oregon). Further, operating without a license—even if it were categorized as a criminal offense under state law—bears no relevance to whether Mr. Ivanov is a danger to the community or a flight risk. *Cf. Bealter Reyes*, 2026 WL 507678, at *5 (observing that petitioner Bealter Reyes’s felony theft charge potentially constitutes a “change in material circumstances after her release,” as the charges “may be relevant to the assessment of dangerousness or flight risk”).

As for the other Petitioners, Respondents make little effort to justify their arrests and re-detentions. Respondents provide no primary evidence² of alleged OREC and ATD violations, and instead rely on eight declarations submitted by seven ICE officers who make blanket assertions regarding their familiarity with Petitioners' cases and base their statements on their "review of [DHS] systems and records." Dkt. 13-1 ¶ 2; Dkt. 13-2 ¶ 2; Dkt. 13-3 ¶ 2; Dkt. 13-4 ¶ 2; Dkt. 13-5 ¶ 2; Dkt. 13-6 ¶ 2; Dkt. 13-7 ¶ 2; Dkt. 13-8 ¶ 2. Two of the declarations fail to state any alleged violations of release conditions. *See* Dkt. 13-1 (Castillo Sanchez); Dkt. 13-3 (Djalo). The remaining declarations fail to meaningfully refute Petitioners' accounts, and at most, raise factual disputes as to whether conditions of release were violated. In particular, four of the declarations include alleged violations for missed check-ins, which may be explained by lack of notice to Petitioners or malfunctioning technology. *Cf.* Dkt. 13-2 ¶ 6 (alleged ATD violations of Diallo) *with* Dkt. 3 ¶ 6 (Petitioner is not aware of any missed check-ins); Dkt. 13-4 ¶ 6 (alleged missed biometric check-ins by Hernandez Alarcon) *with* Dkt. 5 ¶ 6 (Petitioner explains she had reported persistent issues with the phone application and biometric check-in process); Dkt. 13-6 ¶ 6 (alleged missed biometric check-in by Serrano Rodriguez) *with* Dkt. 7 ¶ 4 (Petitioner asserts he never missed a biometric check-in); Dkt. 13-7 ¶ 4 (allegation that Suarez Mora made no contact with ICE) *with* Dkt. 8 ¶¶ 2–4 (Petitioner asserts he updated his address with immigration court and was not advised to contact ICE/ERO for any reason).

² The best evidence rule requires that Respondents produce the various "records in official DHS systems," *e.g.*, Dkt. 13-1 ¶ 2, including any documentation of alleged OREC or ATD violations, *see* Dkt. 13-2 ¶ 6; Dkt. 13-4 ¶ 6; Dkt. 13-6 ¶ 5; Dkt. 13-7 ¶ 4, rather than rely on officer summaries of those materials, *see* Fed. R. Evid. 1002. These declarations should be given limited weight if they are even considered because they are not based on personal knowledge of Petitioners' specific circumstances of re-detention. *E.g.*, Dkt. 13-1 ¶ 2; Fed. R. Evid. 602; *see also, e.g., Barraza Laguna*, 2026 WL 962127, at *5 n.4 (declining to consider similar declarations by ICE officers because, *inter alia*, "the Court cannot confirm that Respondents' counsel, through the exercise of reasonable diligence, verified whether the factual representations therein are accurate and adequately supported by evidence"). Instead, these declarations contain inadmissible hearsay in violation of Federal Rule of Evidence 801(c). In contrast, Petitioners have provided first-hand accounts of their pending applications for relief and efforts to comply with all check-in requirements. *See generally* Dkts. 2–9.

1 In any event, courts in this District have repeatedly found that such “factual disputes as to
 2 Petitioner’s alleged parole violations should be resolved at a pre-deprivation hearing, rather than
 3 resolved after the fact by this Court.” *Ramirez Tesara v. Wamsley*, No. 2:25-cv-01723-KKE-TLF,
 4 2025 WL 3288295, at *5 (W.D. Wash. Nov. 25, 2025); *see also See P.T. v. Hermosillo*, No. 2:25-
 5 cv-02249-KKE, 2025 WL 3294988, at *3 n.1 (W.D. Wash. Nov. 26, 2025) (“The Court finds no
 6 reason to assume the accuracy of the Government’s records of Petitioner’s ATD violations, or to
 7 assume that they alone justify detention . . . but any factual dispute about the validity of the
 8 violations should have been resolved at a pre-deprivation hearing.”). Further, the declaration for
 9 Petitioner Villanueva Rios alleges ICE canceled his OREC on January 13, 2026, for his arrest on
 10 May 12, 2025, *see* Dkt. 13-8 ¶¶ 7–8, but according to Mr. Villanueva Rios, the charges had
 11 already been dismissed on December 3, 2025, *see* Dkt. 9 ¶ 6. Thus, Respondents’ fail to justify
 12 the arrests and re-detentions of Petitioner or demonstrate that Petitioners were not entitled to a
 13 pre-deprivation hearing.

14 The opportunity for a pre-deprivation hearing remains “the root requirement of the Due
 15 Process Clause” where any significant protected interest is at risk. *Cleveland Bd. of Educ. v.*
 16 *Loudermill*, 470 U.S. 532, 542 (1985). Respondents’ submissions do not alter this touchstone of
 17 procedural due process and cannot overcome the numerous recent decisions holding the same.

18 **C. The government’s interest in re-detaining Petitioners without a hearing is**
 19 **minimal.**

20 Courts in this District have now repeatedly recognized that (1) the government’s interest
 21 in re-detaining noncitizens without procedural safeguards is “low,” *Ramirez Tesara*, 2025 WL
 22 3288295, at *5; *see also P.T.*, 2025 WL 3294988, at *3; (2) any interest in ensuring conditions
 23 for release are followed “[is] not threatened if a pre-deprivation [hearing] is required,” *P.T.*, 2025
 24 WL 3294988, at *4; and (3) the “finite” costs of providing such notice and a hearing “are far out-
 25 weighed by the risk of erroneous deprivation” of a petitioner’s liberty interests, *id.* at *3.

26 Notably, in *Bealter Reyes*, this Court found that the third *Mathews* factor weighed in Ms. Bealter
 27

1 Reyes's favor, despite her pending felony charge. *Reyes*, 2026 WL 507678, at *5 (observing that
2 while control over matters of immigration is a "sovereign prerogative of the executive and
3 legislature," respondents "have not articulated a compelling interest in re-detaining an individual,
4 who was on conditional parole, without any hearing whatsoever") (internal citations and
5 quotations omitted).

6 Because all three *Mathews* factors favor Petitioners, the Court should find that
7 Respondents' re-detention of Petitioners without written notice and a pre-deprivation hearing
8 violated their rights under the Due Process Clause of the Fifth Amendment and order that all
9 Petitioners be immediately released.
10

11 **II. Petitioners are entitled to an order preventing re-detention without written
12 notice and a pre-deprivation hearing.**

13 Petitioners satisfy the test for permanent injunctive relief enjoining their re-detention
14 without constitutionally adequate procedures. Under *eBay Inc. v. MercExchange, L.L.C.*, a party
15 "seeking a permanent injunction must demonstrate (1) that he has suffered an irreparable injury;
16 (2) that remedies available at law, such as monetary damages, are inadequate to compensate for
17 that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a
18 remedy in equity is warranted; and (4) that the public interest would not be disserved by a
19 permanent injunction." 547 U.S. 388, 391 (2006). Petitioners satisfy each element here.
20 Respondents insist that this request is "speculative" but devote no substantive argument to the
21 point. *See* Dkt. 13 at 2.

22 As an initial matter, the law and the history of re-detentions in this district reflect that
23 Petitioners have standing to seek injunctive relief. "It has long been recognized that the
24 likelihood of recurrence of challenged activity is more substantial when the cessation is not
25 based upon a recognition of the initial illegality of that conduct." *Armster v. U.S. Dist. Ct. for*
26 *Cent. Dist. of California*, 806 F.2d 1347, 1359 (9th Cir. 1986). Respondents' actions have given
27 no indication that they intend to stop indiscriminately re-detaining previously released persons

1 without prior notice and opportunity to be heard, despite the voluminous caselaw in this district
2 repeatedly declaring such arrests unlawful. Respondents' position here and routine practice of re-
3 arrests establish more than a possibility of recurrence—they reflect an avowed intention to
4 continue the challenged conduct. *See, e.g., Arroyo Silva*, 2026 WL 445003, at *6 (“Respondents
5 make clear that their current practices for re-detention contravene, and will continue to
6 contravene, the constitutional principles espoused in this Order and in other court orders issued
7 in this District.”). As recently observed by this Court:

8 Respondents have been on notice in this District since at least August 19, 2025, that
9 re-detaining individuals who originally had been detained at the border and then
10 released without notice and an opportunity to be heard violates the Fifth
11 Amendment's Due Process clause. Since that time, Respondents have continued to
12 re-detain petitioners in this District without due process on at least ten occasions—
actions that continue despite many court orders finding that these actions violate
due process. Consequently, this convinces the Court that, absent a court order, this
type of deprivation can and may recur again to Petitioner[s].

13 *Ortiz v. Hermosillo*, No. 2:26-cv-00384-TL, 2026 WL 607672, at *5 (W.D. Wash. Mar. 4, 2026)
14 (citation omitted); *cf. Nielsen v. Preap*, 586 U.S. 392, 403 (2019) (plurality opinion) (noting that
15 the claims of the plaintiffs did not become moot when they were released on bond “[u]nless th[e]
16 preliminary [relief] was made permanent” because they still “faced the threat of re-arrest and
17 mandatory detention”). The same logic applies to Petitioners.

18 In ordering the immediate release of similarly situated petitioners, this Court has
19 repeatedly enjoined the government from re-detaining them without providing constitutionally
20 adequate procedures. *See, e.g., Ramirez Tesara*, 2025 WL 3288295, at *6 (ordering that the
21 petitioner “cannot be re-detained until after a hearing (with adequate notice) on his alleged parole
22 violations”); *P.T.*, 2025 WL 3294988, at *4 (ordering that government could not re-detain the
23 petitioner absent “a hearing . . . (with adequate notice) to determine whether detention is
24 appropriate”); *Francois*, 2025 WL 3496557, at *4 (similar); *Cabrera Perez v. Hermosillo*, No.
25 C25-2542-RSM, 2026 WL 100735, at *6 (W.D. Wash. Jan. 14, 2026) (similar); *Shinwari*, 2026
26 WL 262605, at *4 (similar); *Sarwari*, 2026 WL 279968, at *8 (similar); *Arroyo Silva*, 2026 WL
27 445003, at *7 (similar); *Arrioja Blanco v. Hermosillo*, No. C26-493-MLP, 2026 WL 548056, at

1 *4 (W.D. Wash. Feb. 27, 2026) (similar); *Ortiz*, 2026 WL 607672, at *7 (similar); *Espinoza*
2 *Palacios*, 2026 WL 686138, at *11; *Caisa Telenchana*, 2026 WL 696806, at *15 (similar).

3 Respondents provide no reason to depart from that caselaw here.

4 As to the *eBay* factors themselves, in *Espinoza Palacios* and *Ortiz*, this Court found that
5 those factors warrant permanent injunctive relief. First, the Court found that individuals who
6 were already unconstitutionally detained without process had suffered irreparable harm that was
7 “likely to continue or recur absent injunctive relief to protect against further constitutional
8 violations.” *Espinoza Palacios*, 2026 WL 686138, at *10; *see also Ortiz*, 2026 WL 607672, at *6
9 (“It is well established that the deprivation of constitutional rights ‘unquestionably constitutes
10 irreparable injury.’ (quoting *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017))). As
11 detailed above, this is particularly true because in this district alone, Respondents have continued
12 to unlawfully detain hundreds of people like Petitioners for months in the face of established
13 caselaw demonstrating such detentions are unlawful. *See Caballero Madero v. Hermosillo*, No.
14 C26-0568-JLR, 2026 WL 891355, at *4 (W.D. Wash. Apr. 1, 2026) (“Despite this court’s many
15 orders holding that the Government’s conduct in revoking parole and re-detaining noncitizens
16 without due process is unconstitutional, the conduct has continued.”). Second and third, the
17 Court explained that “monetary damages are inadequate to remedy the deprivation of liberty . . .
18 and requiring the Government to follow constitutional procedures imposes no undue hardship.”
19 *Espinoza Palacios*, 2026 WL 686138, at *10. Fourth, “the public interest favors compliance with
20 the law.” *Id.* On this last factor, the *Ortiz* court similarly reasoned that “despite multiple court
21 orders releasing petitioners for being re-detained in violation of due process,” “Respondents’
22 re-detention procedures [have violated] also the rights of many other similarly situat[ed]
23 petitioners in this District.” 2026 WL 607672, at *6. “Ordering Respondents to not re-detain
24 noncitizens without due process does not create a disservice to the greater public; in fact, it
25 reinforces constitutional rights.” *Id.* (citations omitted).

26 Finally, any such order should also require the government to justify re-detention by clear
27 and convincing evidence and to demonstrate that alternatives to detention are inadequate. A

1 heightened burden is appropriate where, as here, each Petitioner's initial release reflected a
2 government determination that they were not a danger or flight risk, and it is the government that
3 seeks to reverse that determination and reimpose confinement. *See Espinoza v. Kaiser*, No. 1:25-
4 cv-01101, 2025 WL 2675785, at *14 (E.D. Cal. Sept. 5, 2025); *see also, e.g., Martinez*
5 *Hernandez*, 2025 WL 2495767, at *14. That standard comports with long-established due
6 process principles: "Because it is improper to ask the individual to 'share equally with society
7 the risk of error when the possible injury to the individual'—deprivation of liberty—is so
8 significant, a clear and convincing evidence standard of proof provides the appropriate level of
9 procedural protection." *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011) (quoting
10 *Addington v. Texas*, 441 U.S. 418, 427 (1979)), *abrogated on other grounds by Jennings v.*
11 *Rodriguez*, 583 U.S. 281 (2018). Similarly, because each Petitioner was previously released
12 under less restrictive conditions, any pre-deprivation hearing must require Respondents to
13 demonstrate why alternatives to detention would no longer be adequate. *See, e.g., Espinoza*
14 *Palacios*, 2026 WL 686138, at *10–11 (requiring that Respondents "meet the clear and
15 convincing evidentiary standard at any future pre-detention hearings for Petitioners" (citing
16 *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *13–14 (E.D. Cal.
17 Sept. 5, 2025)).

18 CONCLUSION

19 For all the foregoing reasons, Petitioners respectfully request that this Court grant a writ
20 of habeas corpus, order their immediate release, and enjoin Respondents from re-detaining any
21 Petitioner absent notice and a pre-deprivation hearing at which Respondents must justify danger
22 or flight risk by clear and convincing evidence and that no alternative to detention would
23 mitigate those risks. Petitioners also request that the Court order that upon release, Respondents
24 must return to Petitioners any personal property as outlined in their prayer for relief. Dkt. 1 at 34.
25
26
27

1 Respectfully submitted this 13th day of April, 2026.

2
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14
15 **I certify that the foregoing contains 4,153 words,*
16 *in compliance with the Local Civil Rules.*

17 NORTHWEST IMMIGRANT RIGHTS PROJECT
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21 *Counsel for Petitioners*