

Magistrate Judge Brian A. Tsuchida

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REYNA LIMA GAMEZ, *et al.*,

Petitioners,

v.

JULIO HERNANDEZ, *et al.*,¹

Respondents.

Case No. 2:26-cv-01104-BAT

FEDERAL RESPONDENTS'²
RETURN

Noted for Consideration:
April 20, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement (“ICE”) detains Petitioners at the Northwest ICE Processing Center (“NWIPC”) pursuant to 8 U.S.C. § 1225(b). Of the seven Petitioners, six were previously released from immigration detention and then re-detained during their pending removal proceedings. One Petitioner was detained without any pending removal proceedings or while on conditional release. Each Petitioner claims that their re-detention violates procedural due process because the government failed to provide written notice and a pre-deprivation hearing

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Federal Respondents substitute Todd Blanche for Pamela Bondi.

² Respondent Bruce Scott is not a federal employee and not represented by undersigned counsel.

1 before revocation of their releases. *See* Pet., ¶¶ 142-145. This claim fails to look at each
2 noncitizen’s re-detention independently as procedural due process is flexible and should be
3 individually suited to the circumstances at hand. Furthermore, it completely ignores the fact that
4 one Petitioner could not have had his release “revoked,” as he was not in active removal
5 proceedings or subject to supervised release. Thus, the appropriate process due to this Petitioner
6 at the time of his detention is the same as any noncitizen taken into custody to initiate removal
7 proceedings.

8 As to the seven other Petitioners, even if this Court were to find that additional procedural
9 protections are required, due process does not mandate that all re-detentions require a pre-
10 deprivation hearing. *See, e.g., Lucena-Ojeda v. Noem*, No. 2:26-cv-00085-BAT, 2026 WL
11 279353, at *3 (W.D. Wash. Feb. 3, 2026) (“the specific circumstances of redetention drive what
12 process is due”); *Safi v. Noem*, No. 2:26-cv-00308-TLF, 2026 WL 445564, at *4 (W.D. Wash.
13 Feb. 17, 2026) (finding that a prompt post-deprivation hearing would be appropriate based on the
14 individual facts of the case).

15 Petitioners further ask this Court to “permanently enjoin[] their re-detention during the
16 pendency of their removal proceeding[s] absent written notice and a hearing prior to re-detention
17 where Respondents must prove by clear and convincing evidence that each Petitioner is a flight
18 risk or danger to the community and that no alternatives to detention would mitigate those risks”
19 Pet., Prayer for Relief, ¶ 3. In addition, they seek a declaratory judgment that future re-detention
20 without these procedures during removal proceedings violates due process. *Id.*, ¶ 5. But even if
21 Petitioners were released from their current detention, this claim for relief would be based on
22 speculation of the circumstances of any future re-detention and certainly could not encompass
23 every circumstance leading to re-detention, for instance if a Petitioner committed a violent crime
24 or became subject to a removal order. Accordingly, this Court should deny Petitioners’ request

for permanent injunctive relief. *Torres v. Hermosillo*, No. 2:25-cv-02687-LK, 2026 WL 145715, at *8 (W.D. Wash. Jan. 20, 2026).

II. LEGAL BACKGROUND

A. Section 1225(b) Detention

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.” *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims and expeditiously removing the aliens making such claims from the country.”). Section 1225 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in the United States who [have] not been admitted” or noncitizens “who arrive[] in the United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (“[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until certain proceedings have concluded.”).

B. Discretionary Release

U.S. Department of Homeland Security (“DHS”) has discretionary release authority of noncitizens detained under Section 1225(b) mandatory detention. The sole means of release from detention pursuant to Section 1225(b) is temporary parole ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings v. Rodriguez*, 583 U.S. 281, 283 (2018).

The implementing regulations provide two ways for parole to be terminated. First, parole automatically terminates if the noncitizen departs from the United States or “at the expiration of the time for which parole was authorized,” and “no written notice shall be required” for automatic

1 termination. 8 C.F.R. § 212.5(e)(1). Second, parole is terminated when the purpose for which
2 parole was authorized has been accomplished or an authorized DHS official decides that “neither
3 humanitarian reasons nor public benefit warrants the continued presence of the alien in the United
4 States.” 8 C.F.R. § 212.5(e)(2)(i). In these circumstances, parole is terminated upon written
5 notice to the noncitizen. Upon termination of parole, the applicant reverts to the status that he or
6 she had at the time of parole. 8 C.F.R. § 212.5(e)(2)(i).

7 Following termination of parole, “any order of exclusion, deportation, or removal
8 previously entered shall be executed.” 8 C.F.R. § 212.5(e)(2)(i); *see also* 8 C.F.R. § 212.5(e)(1).
9 “If the exclusion, deportation, or removal order cannot be executed within a reasonable time, the
10 [noncitizen] shall again be released on parole unless in the opinion of [an authorized DHS official]
11 the public interest requires that the [noncitizen] be continued in custody.” 8 C.F.R. §
12 212.5(e)(2)(i).

13 Section 1226(a) provides for the arrest and detention of noncitizens “pending a decision
14 on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under Section
15 1226(a), DHS may, in its discretion, detain a noncitizen during his removal proceedings, release
16 him on bond, or release him on conditional parole.³ By regulation, immigration officers can
17 release a noncitizen if he demonstrates that he “would not pose a danger to property or persons”
18 and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). This discretionary
19 release is done with the issuance of an order of release on recognizance (“OREC”) issued by
20 DHS.

21
22
23 ³ Being “conditionally paroled under the authority of § 1226(a)” is distinct from being “paroled into the United States
24 under the authority of § 1182(d)(5)(A).” *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007) (holding
that because release on “conditional parole” under § 1226(a) is not a parole, the alien was not eligible for adjustment
of status under § 1255(a)).

1 A noncitizen can also request a custody redetermination (i.e., a bond hearing) by an
2 immigration judge at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a);
3 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody redetermination, the immigration
4 judge may continue detention or release the noncitizen on bond or conditional parole. 8 U.S.C. §
5 1226(a); 8 C.F.R. § 1236.1(d)(1). Immigration judges have broad discretion in deciding whether
6 to release a noncitizen on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39-40 (BIA 2006) (listing nine
7 factors for immigration judges to consider).

8 However, the release of a noncitizen on OREC prior to July 2025 should not determine
9 whether that person's detention authority is currently governed by Section 1225(b) or Section
10 1226(a). On July 8, 2025, DHS issued a memorandum to ICE employees explaining that DHS
11 had revisited its legal position on detention and release authorities. *Rodriguez v. Bostock*, 802 F.
12 Supp. 3d 1297, 1308 (W.D. Wash. 2025). The memorandum defined an "applicant for admission"
13 as "an alien present in the United States who has not been admitted or who arrives in the United
14 States, whether or not at a designated port of arrival. *Id.* (citing 8 U.S.C. § 1225(a)(1)). Prior to
15 July 2025, DHS allowed discretionary releases of aliens that fit the definition of an applicant for
16 admission pursuant to 8 C.F.R. § 1236.1(c)(8), instead of only utilizing parole. But the
17 memorandum clarified, "Effective immediately, it is the position of DHS that such aliens are
18 subject to detention under [8 U.S.C. § 1225(b)] and may not be released from ICE custody except
19 by [8 U.S.C. § 1182(d)(5)]." *Rodriguez*, 802 F. Supp. 3d at 1308.

20 Accordingly, DHS's prior practice of OREC releases for applicants for admission does
21 not mean that those aliens are no longer applicants for admissions. *Buenrostro-Mendez*, 2026
22 WL 323330, at *8 ("While that is true, the government's past practice has little to do with the
23 statute's text. The text says what it says, regardless of the decisions of prior Administrations.
24 Years of consistent practice cannot vindicate an interpretation that is inconsistent with a statute's

1 plain text.”); *Avila*, 2026 WL 819258, at *5 (“[N]either *Jennings* nor the Government’s history of
2 enforcing § 1225 confines the Government’s authority to detain aliens under § 1225(b)(2)(A) to
3 the border.”).

4 III. FACTUAL BACKGROUND⁴

5 A. Reyna Lima Gamez

6 Petitioner is a native and citizen of Nicaragua. Rodriguez Decl., ¶ 3. After unlawfully
7 entering the United States in 2022, DHS released Petitioner on parole and later issued her an
8 OREC. Rodriguez Decl., ¶ 4. While Petitioner was in jail for a domestic violence arrest in
9 September 2025, DHS issued her a notice to appear that charged her as inadmissible pursuant to
10 8 U.S.C. §§ 1182(a)(6)(A)(i), (a)(7)(A)(i)(I). Rodriguez Decl., ¶¶ 5-6; Lambert Decl., Ex. A,
11 Form I-213; Ex. B, Warrant for Arrest, Ex. C, Notice to Appear. She was transferred into ICE
12 custody on November 29, 2025. Rodriguez Decl., ¶ 7.

13 B. Abdallahi Abeidna

14 Petitioner is a native and citizen of Mauritania. Rodriguez Decl., ¶ 9. Shortly after
15 Petitioner unlawfully crossed the southern border in 2024, immigration officials took Petitioner
16 into custody and initiated removal proceedings. Rodriguez Decl., ¶¶ 10-11. He was released on
17 OREC. Rodriguez Decl., ¶ 11. On November 24, 2025, ICE took Petitioner back into custody
18 pending the completion of his removal proceedings. Rodriguez Decl., ¶ 24; Lambert Decl., Ex.
19 D, Form I-213. ICE revoked his OREC. Lambert Decl., Ex. E, OREC (with revocation).

20 C. Nelby Barrientos Quintero

21 Petitioner is a native and citizen of Venezuela. Rodriguez Decl., ¶ 16. Shortly after
22 Petitioner unlawfully crossed the southern border in 2022, immigration officials took Petitioner
23

24 ⁴ Federal Respondents provide a more detailed factual background in the Declaration of Acting Supervisory
Detention and Deportation Officer Enriquez Rodriguez (“Rodriguez Decl.”).

1 into custody and then released her on OREC. Rodriguez Decl., ¶ 17; Lambert Decl., Ex. F,
2 OREC. Removal proceedings were initiated later that year. Rodriguez Decl., ¶ 18. In 2025,
3 Petitioner incurred thirteen OREC violations. Rodriguez Decl., ¶ 19. ICE took her into custody
4 on February 9, 2026 due to these violations and her OREC was revoked. Rodriguez Decl., ¶ 20;
5 Lambert Decl., Ex. G, Form I-213; Ex. H, Cancellation of Form I-220A.

6 **D. Jose Gonzalez Juarez**

7 Petitioner is a native and citizen of Mexico. Rodriguez Decl., ¶ 23. After unlawfully
8 entering the United States for the third time in 2024, immigration officers took Petitioner into
9 custody and initiated removal proceedings. Rodriguez Decl., ¶¶ 24-26. He was released on
10 OREC. Rodriguez Decl., ¶ 26; Lambert Decl., Ex. I, OREC (with revocation on bottom of form).
11 On December 30, 2025, ICE took him back into custody for an OREC violation and alleged
12 criminal conduct. Rodriguez Decl., ¶¶ 27-29; Lambert Decl., Ex. J, Form I-213. ICE revoked
13 his OREC. Lambert Decl., Ex. I.

14 **E. Edwin Mejia Martinez**

15 Petitioner is a native and citizen of El Salvador. Rodriguez Decl., ¶ 32. In 2016,
16 immigration officers apprehended Petitioner shortly after he crossed the southern border and
17 initiated removal proceedings. Rodriguez Decl., ¶ 33. Petitioner was released from detention on
18 bond. Rodriguez Decl., ¶ 34. An immigration judge dismissed his removal proceedings without
19 prejudice in 2022. Rodriguez Decl., ¶ 35; Lambert Decl., Ex. K, Order.

20 On December 9, 2025, immigration officers detained Petitioner pursuant to an
21 administrative warrant and initiated new removal proceedings. Rodriguez Decl., ¶ 36; Lambert
22 Decl., Ex. L, Form I-213; Ex. M, Warrant for Arrest; Ex. N, Notice to Appear. On February 17,
23 2026, an immigration judge denied Petitioner's request for bond after finding that Petitioner is
24 detained pursuant to 8 U.S.C. § 1225(b). Rodriguez Decl., ¶ 37; Lambert Decl., Ex. O, Order. In

1 the alternative, the immigration judge found that if there were jurisdiction, that bond would be
2 denied because Petitioner is a flight risk. Rodriguez Decl., ¶ 37.

3 On March 27, 2026, an immigration judge denied Petitioner's applications for relief from
4 removal and ordered him removed to El Salvador. Rodriguez Decl., ¶ 38; Lambert Decl., Ex. P.
5 Petitioner has reserved appeal so this order is not administratively final. Rodriguez Decl., ¶ 38.

6 **F. John Palomino Cotrina**

7 Petitioner is a native and citizen of Peru. Rodriguez Decl., ¶ 39. In 2022, immigration
8 officers apprehended Petitioner shortly after he crossed the southern border and initiated removal
9 proceedings. Rodriguez Decl., ¶¶ 40, 41. He was released on OREC. Rodriguez Decl., ¶ 41;
10 Lambert Decl., Ex. Q, OREC (with revocation at bottom of the form). Petitioner is currently
11 appealing his removal order to the Board of Immigration Appeals ("BIA"). Rodriguez Decl.,
12 ¶ 42. He was arrested in September 2025. Rodriguez Decl., ¶ 43.

13 On February 11, 2026, ICE re-detained Petitioner and revoked his OREC due to his arrest.
14 Rodriguez Decl., ¶ 44; Lambert Decl., Ex. R, Form I-213; Ex. Q, OREC. On March 16, 2026,
15 Petitioner submitted a request to the BIA asking to withdraw his appeal. Rodriguez Decl., ¶ 45.
16 The request is pending.

17 **G. Yerlin Reyes Andrade**

18 Petitioner is a native and citizen of Nicaragua. Rodriguez Decl., ¶ 46. In 2021,
19 immigration officers apprehended Petitioner shortly after he crossed the southern border.
20 Rodriguez Decl., ¶ 47. He was released on OREC. Rodriguez Decl., ¶ 48; Lambert Decl., Ex. S,
21 OREC. Soon thereafter, DHS initiated removal proceedings by issuing a notice to appear.
22 Rodriguez Decl., ¶ 49.

1 On January 26, 2026, ICE re-detained Petitioner and cancelled his OREC due to OREC
2 violations and multiple arrests. Rodriguez Decl., ¶ 50; Lambert Decl., Ex. T, Form I-213; Ex. U,
3 Cancellation of Form I-220A.

4 IV. LEGAL STANDARD

5 “The district courts of the United States ... are courts of limited jurisdiction. They possess
6 only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopah Servs.,*
7 *Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope of habeas has been
8 tightly regulated by statute, from the Judiciary Act of 1789 to the present day.” *Dep’t of*
9 *Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020) Title 28 U.S.C. § 2241 provides
10 district courts with jurisdiction to hear federal habeas petitions. To warrant a grant of habeas
11 corpus, the burden is on the petitioner to prove that his or her custody is in violation of the
12 Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v.*
13 *Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

14 V. ARGUMENT

15 Petitioners assert that their re-detentions violate due process because they did not receive
16 written notice and hearings prior to the revocation of their releases. Pet., ¶¶ 142-145. As to
17 Petitioner Mejia Martinez, this claim fails because no conditional release was revoked. He is
18 lawfully detained pursuant to 8 U.S.C. § 1225(b), and in the alternative, 8 U.S.C. § 1226(a). The
19 remaining Petitioners were released on OREC during their pending removal proceedings. There
20 is no dispute that they did not receive pre-deprivation hearings prior to their releases being
21 revoked. However, there is no such standard requirement. Instead, “[d]ue process is flexible and
22 calls for such procedural protections as the particular situation demands.” *Mathews v. Eldridge*,
23 424 U.S. 319, 334 (1976).

1 **A. Due process procedures applicable to the revocation of OREC or parole releases do**
2 **not apply to Petitioner Mejia Martinez.**

3 The sole claim in the Petition is that each Petitioner's re-detention by revoking their
4 releases violated due process. But Petitioner Mejia Martinez was not subject to a "release" which
5 could be "revoked." His removal proceedings had been terminated in 2022 and he does not
6 purport to have been subject to any type of conditional release after that date. This is because any
7 type of discretionary release ended when his removal proceedings were dismissed. *See Garcia*
8 *Gabriel v. Hermosillo*, No. 2:25-cv-02594-DGE-GJL, 2026 WL 194233, at *3 (W.D. Wash. Jan.
9 26, 2026) (explaining that the conditional release ceased when removal proceedings were
10 terminated).

11 Due process does not entitle Petitioner Mejia Martinez to notice and a pre-deprivation
12 hearing before he was detained on December 9, 2025. ICE took Petitioner Mejia Martinez into
13 custody with the issuance of an administrative warrant for arrest (Lambert Decl., Ex. M) and then
14 issued him a new notice to appear as a charging document initiating removal proceedings.
15 Lambert Decl., Ex. N.

16 Because Petitioner Mejia Martinez was no longer in active removal proceedings or subject
17 to conditional release, Petitioner Mejia Martinez is entitled to no more than what a noncitizen
18 would be entitled to upon their initial detention for removal proceedings. As detention is
19 mandatory under 8 U.S.C. § 1225(b), Petitioner Mejia Martinez was not entitled to custody
20 redetermination hearing upon arrest.

21 Even if this Court were to find that Petitioner Mejia Martinez's detention is governed by
22 8 U.S.C. § 1226(a), his detention is still lawful and he is entitled to any habeas relief here. On
23 February 17, 2026, the immigration judge denied Petitioner's request for bond due to lack of
24 jurisdiction after determining that he is subject to mandatory detention pursuant to 8 U.S.C.

1 § 1225(b). Petitioner was also issued an alternate bond order. Lambert Decl., Ex. O, Order. In
2 the alternative, the immigration judge denied bond because Petitioner had failed to establish that
3 he is not a flight risk. *Id.*

4 “[T]he essence of habeas corpus is an attack by a person in custody upon the legality of
5 that custody, and . . . the traditional function of the writ is to secure release from illegal custody.”
6 *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Here, the immigration judge’s alternative finding
7 is a separate basis for the “legality of [his] custody.” *Rivera Hernandez v. Hermosillo*, No. 2:26-
8 cv-00341-TMC, 2026 WL 295709, at *2 (W.D. Wash. Feb. 4, 2026). Accordingly, even under
9 Section 1226(a), Petitioner Mejia Martinez remains lawfully in detention under the immigration
10 judge’s alternate finding. To the extent that Petitioner Mejia Martinez may challenge the
11 alternative finding, this Court should require Petitioner to exhaust his administrative remedies
12 before doing so in district court. *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001)
13 (abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006)).

14 **B. Procedural due process does not require pre-deprivation hearings before every**
15 **release revocation.**

16 The remaining six Petitioners were subject to conditional release when re-detained. Here,
17 the issue is whether their re-detentions without pre-deprivation hearings were consistent with
18 procedural due process. To analyze procedural due process, *Mathews* calls for an analysis of (1)
19 “the private interest that will be affected by the official action,” (2) “the risk of an erroneous
20 deprivation of such interest through the procedures used, and probable value, if any, of additional
21 or substitute procedural safeguards,” and (3) the Government’s interest. *Id.*, at 334-35.

22 When applying the *Mathews* analysis, courts in this Court has found that petitioners
23 detained due to OREC violations similar to Petitioners Lima Gamez, Abeidna, Barrientos
24 Quintero, Gonzalez Juarez, Polomino Cotrina, and Reyes Andrades were entitled to pre-

1 deprivation hearings. *Reyes v. Hermosillo*, No. 2:26-CV-00270-TLF, 2026 WL 507678, at *4
2 (W.D. Wash. Feb. 24, 2026) (analyzing Petitioners Nunez and Ponce). *See Sierra Soto v. Bondi*,
3 No. 2:26-cv-00652-BAT, 2026 WL 972731, at *6-7 (W.D. Wash. Apr. 10, 2026); *Randhawa v.*
4 *Noem*, No. 2:26-cv-00461-BAT, 2026 WL 628299, at *3 (W.D. Wash. Mar. 6, 2026). Federal
5 Respondents recognize that if this Court were to apply the same reasoning as stated in *Sierra Soto*
6 and *Randhawa*, this Court will likely find Petitioners' re-detentions, except for Petitioner Mejia
7 Martinez, required notice and pre-deprivation hearings to comport with procedural due process.
8 For the reasons stated in the briefing referenced in the *Sierra Soto* and *Randhawa* opinions,
9 Federal Respondents respectfully disagree.

10 Thus, while Federal Respondents do not consent to issuance of a writ and reserve all
11 rights, including the right to appeal, and to conserve judicial and party resources while expediting
12 the Court's consideration of this case, the government hereby relies upon, and incorporates by
13 reference, the legal arguments it presented in *Sierra Soto* and *Randhawa* (as referenced in the
14 decisions), and the Court can decide these issues without further briefing in regard to Petitioners
15 Lima Gamez, Abeidna, Barrientos Quintero, Gonzalez Juarez, Polomino Cotrina, and Reyes
16 Andrades.

17 VI. CONCLUSION

18 ICE lawfully re-detained Petitioners Lima Gamez, Abeidna, Barrientos Quintero,
19 Gonzalez Juarez, Polomino Cotrina, and Reyes Andrades by revoking their conditional releases.
20 Petitioner Mejia Martinez is lawfully in immigration detention as the result of his arrest and
21 initiation of new removal proceedings. For the foregoing reasons, Federal Respondents
22 respectfully request that this Court deny Petitioners' requests for release and deny the Petition.

23 //

24 //

1 DATED this 15th day of April, 2026.

2 Respectfully submitted,

3 s/ Michelle R. Lambert

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14 *I certify that this memorandum contains 3,414*
15 *words, in compliance with the Local Civil Rules.*