

Honorable Brian A. Tsuchida

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

Reyna LIMA GAMEZ et al.,

Petitioners,

v.

Julio HERNANDEZ et al.,

Respondents.

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

PETITIONERS' TRAVERSE

Noted for Consideration:
April 20, 2026

INTRODUCTION

Respondents identify two of this Court's decisions—*Sierra Soto v. Bondi*, No. 2:26-cv-00652-BAT, 2026 WL 972731 (W.D. Wash. Apr. 10, 2026), and *Randhawa v. Noem*, No. 2:26-cv-00461-BAT, 2026 WL 628299, at *2–3 (W.D. Wash. Mar. 6, 2026)—and effectively concede that “this Court will likely find that Petitioners’ re-detentions, except for petitioner Mejia Martinez, required notice and pre-deprivation hearings to comport with procedural due process.” Dkt. 12 at 12. Indeed, Respondents offer no responsive argument concerning Petitioners Lima Gamez, Abeidna, Barrientos Quintero, Gonzalez Juarez, Palomino Cotrina, and Reyes Andrade, and instead “incorporate by reference the legal arguments [they] presented in *Sierra Soto* and *Randhawa*.” *Id.* The Court should reject those arguments as forfeited or, at minimum, find that their “respectful[] disagree[ment]” with these prior decisions, *id.*, is “insufficient to convince the Court that those cases were wrongly decided.” *Abdi v. Noem*, No. 2:26-cv-00745-BAT, 2026 WL 835961, at *3 (W.D. Wash. Mar. 26, 2026).

Petitioner Mejia Martinez merits the same relief as the other six Petitioners. Respondents argue that his circumstances are different because his 2022 removal proceedings were dismissed. However, the *Mathews v. Eldridge* analysis does not turn on whether removal proceedings happen to be active when the individual's liberty is revoked—it turns on the private liberty interest, the risk of erroneous deprivation, and the government's interest. Here, each factor favors Mr. Mejia Martinez, who was released on a \$12,000 bond in 2016, lived in the community for nearly ten years, has no criminal history, and supports a wife and two U.S.-citizen children.

Accordingly, the Court should grant the petition, order all Petitioners' immediate release, and enjoin Respondents from re-detaining them without adequate notice and a pre-deprivation hearing at which Respondents must prove by clear and convincing evidence that re-detention is justified and that no alternative to detention would mitigate the asserted risks.

ARGUMENT

Courts in this District, including this Court, have now repeatedly held that the Due Process Clause requires adequate notice and a pre-deprivation hearing before a neutral decisionmaker before revoking the liberty of individuals previously released on an order of release on recognizance (OREC) or parole under 8 U.S.C. § 1182(d)(5). *See, e.g., Sierra Soto*, 2026 WL 972731, at *6–7; *Abdi*, 2026 WL 835961, at *3–4; *Caisa Telenchana v. Hermosillo*, 2026 WL 696806, at *10–12 (W.D. Wash. Mar. 12, 2026); *Randhawa*, 2026 WL 628299, at *2–3; *Caceres Banegas v. Hermosillo*, No. 2:26-cv-00499-TSZ, 2026 WL 586234, at *1–2 (W.D. Wash. Mar. 2, 2026); *Arroyo Silva v. Hermosillo*, No. 2:26-cv-00179-GJL, 2026 WL 445003, at *5 (W.D. Wash. Feb. 17, 2026); *Lucena-Ojeda v. Noem*, No. 2:26-cv-00085-BAT, 2026 WL 279353, at *2 (W.D. Wash. Feb. 3, 2026); *Chicoze-Ezechi v. Noem*, No. 2:26-cv-00145-BAT, 2026 WL 265733, at *2 (W.D. Wash. Feb. 2, 2026); *Osuna Benitez v. Hermosillo*, No. 2:25-cv-02535-BAT, 2025 WL 3763932, at *3–5 (W.D. Wash. Dec. 30, 2025); *see also* Dkt. 1 ¶ 5 (collecting cases). Because Petitioners present substantially similar claims that they were re-detained in violation of procedural due process, the Court should reach the same result here.

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

Respondents aver that “due process is flexible” and that the Court must examine “each noncitizen’s re-detention independently.” Dkt. 12 at 1–2. But Respondents fail to conduct any independent analysis as to six of the seven Petitioners and instead concede that under existing legal authorities, the *Mathews* analysis will favor each of them. Dkt. 12 at 12. As a threshold matter, as to these six Petitioners, Respondents have forfeited any arguments “incorporate[d] by reference” to those they presented in *Sierra Soto* and *Randhawa*. *In re Nat’l Sec. Agency Telecomms. Recs. Litig.*, 669 F.3d 928, 931 (9th Cir. 2011) (holding that parties are not ordinarily permitted to incorporate briefs in other cases); *see also, e.g., Russell v. WADOT Cap., Inc.*, No. C22-0531JLR, 2024 WL 2091770, at *2 n.1 (W.D. Wash. May 7, 2024) (rejecting attempt to incorporate arguments by reference). But even if the Court considers those arguments, Respondents offer no legal or factual basis to depart from the prior decisions.¹ In addition, while Respondents assert that Petitioner Mejia Martinez is uniquely situated, they fail to conduct an individualized *Mathews* analysis for him, only pointing to the statutory authority for his detention to justify the revocation of his liberty without any pre-deprivation hearing—a reasoning that this Court, like many others in this District, has rejected.

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

¹ Notably, *Sierra Soto* and *Randhawa* involved different petitioners and different counsel. Thus, undersigned counsel cannot even access the briefing in those cases via ECF because they are habeas cases. *See* U.S. District Court, Western District of Washington, Electronic Filing Procedures for Civil and Criminal Cases § VII.C (Mar. 6, 2026). However, Petitioners’ counsel is generally aware of the types of arguments Respondents make in these cases, *see* Dkt. 1 ¶ 5 (citing similar cases in which the Northwest Immigrant Rights Project has appeared as counsel), and therefore addresses the general arguments Respondents have set forth in cases filed on behalf of similarly situated petitioners.

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

The interest in freedom from physical confinement is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). “The 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). That interest is not diminished by a person’s status as a noncitizen. *Lucena-Ojeda*, 2026 WL 279353, at *2.

Each Petitioner was released from immigration custody—on parole, OREC, or bond—based on a determination that they posed neither a danger nor a flight risk.² Pet. ¶¶ 30 (Lima Gamez), 43 (Abeidna), 52 (Barrientos Quintero), 69 (Gonzalez Juarez), 85 (Mejia Martinez), 98 (Palomino Cotrina), 111 (Reyes Andrade). 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* Pet. ¶¶ 30–39 (Lima Gamez), 43–48 (Abeidna), 52–65 (Barrientos Quintero), 69–80 (Gonzalez Juarez), 98–107 (Palomino Cotrina), 111–120 (Reyes Andrade). Notably, for Mr. Mejia Martinez, Respondents do not contest that he was released on bond in May 2016 after passing a credible fear interview; has lived in the community with his family, including two U.S.-citizen children, for nearly ten years; and has no criminal history. Pet. ¶¶ 84–90. Such ties strengthen due process protections. *See, e.g., Tsyamba v. Hermosillo*, No. 2:25-cv-02623-GJL, 2026 WL 237514, at *4 (W.D. Wash. Jan. 29, 2026); *Lakshya Rana v. Bondi*, No. 2:26-cv-00244-TL, 2026 WL 472800, at *4 (W.D. Wash. Feb. 19, 2026).

Respondents do not dispute Mr. Mejia Martinez’s significant liberty interest on its merits. Instead, they distinguish him on the basis that he was “no longer in active proceedings or subject

² 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). 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). Release on bond under § 1226(a) requires a finding by the immigration judge (IJ) that the noncitizen poses neither a danger nor flight risk. *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006).

1 to conditional release,” and thus “entitled to no more than what a noncitizen would be entitled to
 2 upon their initial detention for removal proceedings.” Dkt. 12 at 10. But as this Court has
 3 previously held, “[P]etitioner is entitled to due process regardless of the statutory authority for
 4 his detention.” *Abdi*, 2026 WL 835961, at *2; *see also Shinwari v. Hermosillo*, No. 2:26-cv-
 5 00009-RAJ, 2026 WL 262605, at *3 (W.D. Wash. Jan. 30, 2026)s (“[E]ven if a particular statute
 6 or regulation does not require a pre-arrest hearing . . . this does not mean such a hearing is not
 7 required by Due Process.” (citation omitted)). The sole case that Respondents rely on, *Garcia*
 8 *Gabriel v. Hermosillo*, does not adequately explain why the absence of “active removal
 9 proceedings” or the procedures for an “initial detention” impact the constitutional inquiry. No.
 10 2:25-cv-02594-DGE-GJL, 2026 WL 194233, at *3 (W.D. Wash. Jan. 26, 2026). Accordingly, in
 11 other cases involving similar facts, courts in this District thus examined “[w]hether the manner in
 12 which [the petitioners were] re-detained comported with due process” where the petitioners were
 13 re-detained after their immigration proceedings had been dismissed, concluding that all three
 14 *Mathews* factors weighed in their favor. *Caceres Banegas*, 2026 WL 586234, at *1 (ordering
 15 release of three petitioners in this situation); *S.K. v. Hermosillo*, No. 2:26-CV-00789-TLF, 2026
 16 WL 936458 (W.D. Wash. Apr. 7, 2026) (ordering release of individual with previously-dismissed
 17 proceedings); *A.B.J.C. v. Hermosillo*, No. 2:26-CV-00185-JNW, 2026 WL 497097, at *3 (W.D.
 18 Wash. Feb. 23, 2026) (similar).³ In fact, if anything, the dismissed proceedings underscore
 19 Petitioners’ liberty interest. As the Court explained in *Quinonez Torres v. Hermosillo*, the
 20 “petitioner’s prior release” and “the termination of prior removal proceedings” are factors that
 21 *support* the petitioner’s “established interest in his liberty.” No. 2:26-cv-00076-TLF, 2026 WL
 22 547591, at *9 (W.D. Wash. Feb. 23, 2026); *see also S.K.*, 2026 WL 936458, at *4 (“The first two
 23 [notices to appear] against petitioner were dismissed, presumably after determining that

24
 25 ³ Other courts in the Ninth Circuit have similarly applied the *Mathews* analysis in the case of
 26 persons with previously-dismissed proceedings. *See, e.g., Vicente Miguel v. Bondi*, No. 26-CV-
 27 1636 JLS (SBC), 2026 WL 851966 (S.D. Cal. Mar. 27, 2026) (ordering immediate release of
 person whose proceedings had previously been dismissed at time of re-detention); *Monroy*
Martinez v. Lyons, No. 26-CV-2173 JLS (AHG), 2026 WL 1047937 (S.D. Cal. Apr. 17, 2026)
 (similar).

petitioner was not a flight risk or a danger to the community.”). Notably, Respondents’ theory would permit DHS to erase any noncitizen’s liberty interest and due process protections by moving to dismiss their prior proceedings, *see* 8 C.F.R. § 239.2(a), (c), and filing a new Notice to Appear.

The first factor strongly favors all Petitioners, without exception.

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

This Court has held that the second *Mathews* factor weighs in favor of numerous similarly-situated petitioners. *See Sierra Soto*, 2026 WL 972731, at *6–7; *Randhawa*, 2026 WL 628299, at *2–3; *Chicoze-Ezechi*, 2026 WL 265733, at *2; *Abdi*, 2026 WL 835961, at *3; *Lucena-Ojeda*, 2026 WL 279353, at *2. Specifically, this Court has rejected the application of “a bright line rule that any violation of [the conditions of release], regardless of mitigating factors, demanded Petitioner’s immediate arrest without a pre- or post-deprivation hearing.” *Randhawa*, 2026 WL 628299, at *3. This Court has also found that the risk of erroneous deprivation weighs in favor of the petitioner where Respondents only offer “a conclusory statement” that a petitioner violated conditions of release with no “documentation regarding the [Alternatives-to-Detention] program or the conditions of release under the program.” *Chicoze-Ezechi*, 2026 WL 265733, at *2. Similarly, the Court has found this factor to favor a petitioner where “Respondents present no evidence of any material changes to the facts or circumstances that would indicate a change to the evaluation of . . . flight risk or dangerousness.” *Lucena-Ojeda*, 2026 WL 279353, at *2.

The application of these principles to this case is straightforward. Although Respondents submitted one declaration from an ICE officer describing each Petitioner’s alleged release violations or criminal history, *see* Dkt. 13, and certain documents pertaining to each Petitioner, Dkts. 14-1–14-21, they do not rely on these materials for any argument, *see* Dkt. 12 at 9–12. The declaration itself, moreover, is either unsupported by documentary evidence, internally inconsistent with Petitioners’ contemporaneous declarations, or both.⁴ As this Court held in

⁴ The best evidence rule, Fed. R. Evid. 1002, requires that Respondents produce the “various records . . . maintained by DHS,” Dkt. 13 ¶ 2, rather than rely only on officer summaries of those

1 *Randhawa*, factual disputes⁵ about alleged release violations “should be resolved at a pre-
 2 deprivation hearing, rather than resolved after the fact by this Court.” 2026 WL 628299, at *3;
 3 *accord Ramirez Tesara v. Wamsley*, No. C25-1723-KKE-TLF, 2025 WL 3288295, at *5 (W.D.
 4 Wash. Nov. 25, 2025).

5 Respondents’ argument regarding Mr. Mejia Martinez does not squarely address the
 6 second Mathews factor. Respondents instead concede that no pre-deprivation process occurred
 7 and ask the Court to treat a later, post-deprivation finding of flight risk by an immigration judge
 8 (IJ) as adequate process. Dkt. 12 at 8, 10–11. As this Court has affirmed, however, “a post-
 9 deprivation bond hearing is an inadequate procedural safeguard because it would occur only after
 10 detention and thus fails to address an erroneous deprivation of liberty.” *Lucena-Ojeda*, 2026 WL
 11 279353, at *2; *accord E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025).

12 _____
 13 materials. This declaration should be given limited weight—if even considered—because it is not
 14 based on personal knowledge of Petitioners’ specific circumstances of re-detention. Fed. R. Evid.
 15 602; 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”).

16 ⁵ For Petitioner Abeidna, the government alleges no OREC violation at all, stating only that ICE
 17 re-detained him “pending the completion of his removal proceedings.” Dkt. 12 at 6; Pet. ¶¶ 43–
 18 47 (no criminal history; full compliance; arrested at a regularly scheduled check-in without
 explanation). For Petitioner Barrientos Quintero, Respondents assert “13 OREC violations” (Dkt.
 19 12 at 7) supported only by an I-213 and I-220A cancellation form; Ms. Barrientos Quintero’s
 contemporaneous declaration recounts meticulous compliance through SmartLINK and
 20 subsequent ICE virtual check-ins without a missed appointment, and officers refused to provide
 any detail of the alleged violations when challenged. Pet. ¶¶ 52–62. For Petitioner Gonzalez
 21 Juarez, the government alleges “OREC violation and alleged criminal conduct” (Dkt. 12 at 7),
 but the Petition alleges no criminal history (Pet. ¶ 74), and the asserted OREC violation was
 22 resolved the same day by ICE’s own officer, who confirmed the next day that Mr. Gonzalez
 Juarez was in compliance and had been approved for travel authorization. Pet. ¶¶ 72, 75–78.
 Respondents impermissibly rely on multiple layers of hearsay for the allegation that he “was
 23 engaging in behavior that, if reported to police, would constitute a crime,” asserting that “ICE
 received a report” of such activity. Dkt. 13 ¶ 28. For Petitioner Lima Gamez, the asserted
 24 justification—a September 2025 battery charge—was dismissed on November 10, 2025, before
 ICE took her into custody on November 12, 2025. Pet. ¶¶ 35–36; Lima Gamez Decl. ¶¶ 8–9; *see*
 25 *also Gomez Candelo v. Noem*, No. 2:26-CV-00576-JNW, 2026 WL 879049, at *3 (W.D. Wash.
 Mar. 31, 2026) (“[A] single arrest—one that resulted in the charge being dismissed by the
 State—does not exempt the Government from its constitutional obligations.”). For Petitioners
 26 Palomino Cotrina and Reyes Andrade, the criminal matters Respondents cite were known to ICE
 long before re-detention; both Petitioners completed post-incident ICE check-ins without
 27 incident. Pet. ¶¶ 103–04 (Palomino Cotrina); Pet. ¶¶ 115, 117 (Reyes Andrade).

1 Indeed, the fact that the IJ denied his request for custody redetermination based on lack of
 2 jurisdiction, Dkt. 14-15, only underscores the risk of erroneous deprivation. Respondents'
 3 argument that he must now be required to exhaust administrative remedies, Dkt. 12 at 11,
 4 continues to highlight this risk. Any such appeal is futile because Respondents maintain that Mr.
 5 Mejia Martinez is subject to mandatory detention. *See Matter of Yajure Hurtado*, 29 I. & N. Dec.
 6 216 (BIA 2025); *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). As with the other six
 7 Petitioners, exhaustion is not warranted for Mr. Mejia Martinez and should be waived "given the
 8 inadequacy of available remedies to redress [his] irreparable harm," *E.A. T.-B.*, 795 F. Supp. 3d
 9 at 1324; *cf. W.T.M. v. Bondi*, No. 2:25-cv-02428-RAJ-BAT, 2026 WL 262583, at *2 (W.D. Wash.
 10 Jan. 30, 2026) (finding that prudential waiver was not required in part because the petitioner
 11 presented a challenge that was "constitutional in nature" and requiring exhaustion would "result
 12 in irreparable injury" (citation omitted)).

13 Accordingly, the second factor also weighs in favor of all Petitioners.

14 **C. The government's interest in re-detaining Petitioners without a hearing is**
 15 **minimal.**

16 Courts in this District have now repeatedly recognized that (1) the government's interest
 17 in re-detaining noncitizens without procedural safeguards is "low," *Ramirez Tesara*, 2025 WL
 18 3288295, at *5; (2) any interest in ensuring conditions for release are followed "[is] not
 19 threatened if a pre-deprivation [hearing] is required," *see also P.T. v. Hermosillo*, No. C25-2249-
 20 KKE, 2025 WL 3294988, at *4 (W.D. Wash. Nov. 26, 2025); and (3) the "finite" costs of
 21 providing such notice and a hearing "are far out-weighed by the risk of erroneous deprivation" of
 22 a petitioner's liberty interests, *id.* at *3.

23 Notably, this Court correctly concluded in both *Sierra Soto* and *Randhawa* that the
 24 government's interests "are not hindered by providing Petitioner with an individualized bond
 25 hearing." *Randhawa*, 2026 WL 628299, at *3; *Sierra Soto*, 2026 WL 972731, at *7 (same). The
 26 same is true for all Petitioners here, including Mr. Mejia Martinez.
 27

1 Because all three Mathews factors favor Petitioners, the Court should find that their re-
2 detention without written notice and pre-deprivation hearings violated the Fifth Amendment.

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

5 Petitioners satisfy the test for permanent injunctive relief enjoining their re-detention
6 without constitutionally adequate procedures. Under *eBay Inc. v. MercExchange, L.L.C.*, a party
7 “seeking a permanent injunction must demonstrate (1) that he has suffered an irreparable injury;
8 (2) that remedies available at law, such as monetary damages, are inadequate to compensate for
9 that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a
10 remedy in equity is warranted; and (4) that the public interest would not be disserved by a
11 permanent injunction.” 547 U.S. 388, 391 (2006). Contrary to Respondents’ claim—to which
12 they devote no substantive argument—this request is not based on “speculation.” Dkt. 12 at 2.

13 As an initial matter, the law and the history of re-detentions in this district reflect that
14 Petitioners have standing to seek injunctive relief. “It has long been recognized that the
15 likelihood of recurrence of challenged activity is more substantial when the cessation is not
16 based upon a recognition of the initial illegality of that conduct.” *Armster v. U.S. Dist. Ct. for*
17 *Cent. Dist. of Cal.*, 806 F.2d 1347, 1359 (9th Cir. 1986). Respondents have given no indication
18 that they intend to stop indiscriminately re-detaining previously released persons without prior
19 notice and opportunity to be heard, despite the voluminous caselaw in this district repeatedly
20 declaring such arrests unlawful. Respondents’ position here and routine practice of re-arrests
21 establish more than a possibility of recurrence—they reflect an avowed intention to continue the
22 challenged conduct. *See, e.g., Arroyo Silva*, 2026 WL 445003, at *6 (“Respondents make clear
23 that their current practices for re-detention contravene, and will continue to contravene, the
24 constitutional principles espoused in this Order and in other court orders issued in this District.”).

25 As recently observed in another decision:

26 Respondents have been on notice in this District since at least August 19, 2025, that
27 re-detaining individuals who originally had been detained at the border and then
released without notice and an opportunity to be heard violates the Fifth
Amendment’s Due Process clause. Since that time, Respondents have continued to

1 re-detain petitioners in this District without due process on at least ten occasions—
2 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].

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

8 This District Court has also repeatedly enjoined the government from re-detaining
9 released petitioners without providing constitutionally adequate procedures. *See, e.g., Ramirez*
10 *Tesara*, 2025 WL 3288295, at *6 (ordering that the petitioner “cannot be re-detained until after a
11 hearing (with adequate notice) on his alleged parole violations”); *P.T.*, 2025 WL 3294988, at *4
12 (ordering that government could not re-detain the petitioner absent “a hearing . . . (with adequate
13 notice) to determine whether detention is appropriate”); *Francois v. Wamsley*, No. C25-2122-
14 RSM, 2025 WL 3496557, at *4 (W.D. Wash. Dec. 5, 2025) (similar); *Cabrera Perez v.*
15 *Hermosillo*, No. C25-2542-RSM, 2026 WL 100735, at *6 (W.D. Wash. Jan. 14, 2026) (similar);
16 *Shinwari*, 2026 WL 262605, at *4 (similar); *Sarwari v. Wamsley*, No. 2:26-cv-00121-TL, 2026
17 WL 279968, at *8 (W.D. Feb. 3, 2026) (similar); *Arroyo Silva*, 2026 WL 445003, at *7 (similar);
18 *Arriola Blanco v. Hermosillo*, No. C26-493-MLP, 2026 WL 548056, at *4 (W.D. Wash. Feb. 27,
19 2026) (similar); *Ortiz*, 2026 WL 607672, at *7 (similar); *Espinoza Palacios v. Hermosillo*, No.
20 2:26-cv-491-JNW, 2026 WL 686138, at *11 (W.D. Wash. Mar. 11, 2026); *Caisa Telenchana*,
21 2026 WL 696806, at *15 (similar). Respondents provide no reason to depart from that caselaw
22 here.

23 As to the *eBay* factors themselves, in *Espinoza Palacios* and *Ortiz*, this Court found that
24 those factors warrant permanent injunctive relief. First, the Court found that individuals who
25 were already unconstitutionally detained without process had suffered irreparable harm that was
26 “likely to continue or recur absent injunctive relief to protect against further constitutional
27 violations.” *Espinoza Palacios*, 2026 WL 686138, at *10; *see also Ortiz*, 2026 WL 607672, at *6

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

18 Finally, any such order should also require the government to justify re-detention by clear
19 and convincing evidence and to demonstrate that alternatives to detention are inadequate. A
20 heightened burden is appropriate where, as here, each Petitioner’s initial release reflected a
21 government determination that they were not a danger or flight risk, and it is the government that
22 seeks to reverse that determination and reimpose confinement. *See Espinoza v. Kaiser*, No. 1:25-
23 cv-01101, 2025 WL 2675785, at *14 (E.D. Cal. Sept. 5, 2025). That standard comports with
24 long-established due process principles: “Because it is improper to ask the individual to ‘share
25 equally with society the risk of error when the possible injury to the individual’—deprivation of
26 liberty—is so significant, a clear and convincing evidence standard of proof provides the
27 appropriate level of procedural protection.” *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir.

2011) (quoting *Addington v. Texas*, 441 U.S. 418, 427 (1979)), *abrogated on other grounds by*
Jennings v. Rodriguez, 583 U.S. 281 (2018). Similarly, because each Petitioner was previously
released under less restrictive conditions, any pre-deprivation hearing must require Respondents
to demonstrate why alternatives to detention would no longer be adequate. *See, e.g., Espinoza*
Palacios, 2026 WL 686138, at *10–11 (requiring that Respondents “meet the clear and
convincing evidentiary standard at any future pre-detention hearings for Petitioners” (citation
omitted)).

CONCLUSION

For all the foregoing reasons, Petitioners respectfully request that this Court grant a writ
of habeas corpus, order their immediate release, and enjoin Respondents from re-detaining any
Petitioner absent notice and a pre-deprivation hearing at which Respondents must justify danger
or flight risk by clear and convincing evidence and that no alternative to detention would
mitigate those risks. Petitioners also request that the Court order that upon release, Respondents
must return to Petitioners any personal property as outlined in their prayer for relief. Dkt. 1 at 34,
Prayer for Relief (4).

Respectfully submitted this 13th day of April, 2026.

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**I certify that the foregoing contains 4,247 words,
in compliance with the Local Civil Rules.*

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