District Judge Ricardo S. Martinez
Magistrate Judge Grady J. Leupold

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Giny FRANCOIS, et al.,

Petitioners,

v.

Laura HERMOSILLO, et al.,

Respondents.

Case No. 2:25-cv-2122-RSM-GJL

PETITIONERS' TRAVERSE AND RESPONSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Note on Motion Calendar:
November 21, 2025

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INTRODUCTION

Petitioners Francois, Davila, and Pinto are noncitizens whom Respondents initially released from immigration custody to pursue their removal proceedings. Respondents subsequently re-arrested each without first holding a hearing before a neutral decisionmaker to determine if they violated their conditions of release and now present a flight risk or danger. For two Petitioners, Respondents attempt to justify this unconstitutional conduct by pointing to alleged release violations. But even if these are not simply post-hoc justifications for an arrest, Respondents miss the point: due process demands that Respondents afford Petitioners meaningful process *before* re-detention, not mere uniliteral reliance on the word of the "government enforcement agent" to justify re-detention. *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971). In any event, Respondents' evidence does not significantly contradict Petitioners' history of compliance with check-in requirements and court hearing attendance, underscoring the need for review by a neutral decisionmaker *prior* to re-detention.

Nothing in Respondents' filing undermines this Court's prior holding that Petitioners are likely to prevail on their due process claim. Dkt. 16 at 6–10. Accordingly, this Court should grant their habeas petition.

RESPONSIVE STATEMENT OF FACTS

Respondents do not disagree with the key facts in this case as recounted by this Court in its Temporary Restraining Order (TRO): subsequent to Petitioners' entries, each was released into the United States by immigration authorities; each has applied for relief from removal; and each has been re-arrested without Respondents first providing a hearing before a neutral decisionmaker where Immigration and Customs Enforcement (ICE) demonstrated by clear and

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convincing evidence that he was re-arrested because of a release violation showing he is now a flight risk or danger to the community. *Compare* Dkt. 16 at 2–4, *with* Dkt. 17 at 3–6.

To the extent that Respondents now claim new bases for re-detaining Petitioners Davila and Pinto based on alleged parole violations, Petitioners note that their claims focus solely on whether their re-detention procedures complied with the Fifth Amendment's Due Process Clause. Nevertheless, Petitioners address Respondents' allegations below. *See infra* Section II.B.

ARGUMENT

I. This Court has jurisdiction over the petition.

None of Respondents' asserted jurisdictional bars—8 U.S.C. § 1252(g), (b)(9), or (e)(3)—preclude this Court's review of the claims asserted here. *See* Dkt. 17 at 8.

First, both the Supreme Court and the Ninth Circuit have recognized that the scope of § 1252(g) is "narrow" and does not cover non-discretionary, purely legal questions. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) ("*AADC*"); *e.g.*, *Ibarra-Perez v. United States*, 154 F.4th 989, 997 (9th Cir. 2025) ("In . . . one of our first cases to interpret § 1252(g)—we specifically held § 1252(g) did not bar due process claims." (citations omitted); *United States v. Hovsepian*, 359 F.3d 1144, 1155 (9th Cir. 2004) (en banc). Petitioners raise a discrete, "purely legal question": whether the circumstances of their re-detention comported with procedural due process. *E.g.*, Dkt. 1 ¶¶ 82–85. Courts within this circuit have already held that § 1252(g) does not bar jurisdiction over such habeas petitions. *See, e.g.*, *Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *3 (E.D. Cal. Aug. 20, 2025) (collecting cases). The Court's jurisdiction here is equally unaffected by § 1252(g).

Second, Respondents' argument concerning § 1252(b)(9) is also foreclosed by binding precedent. Paragraph 1252(b)(9) is a "zipper clause" that channels review of final removal orders

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into petitions for review before a federal court of appeals. *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (en banc) (citation omitted). Respondents contend that Petitioners' challenge to their re-detention seeks review of an "action taken . . . to remove a[] [noncitizen] from the United States," Dkt. 17 at 8, and thus falls within § 1252(b)(9). *Jennings v. Rodriguez*, however, rejected that proposition—the same one Respondents now make—as "absurd" and "extreme." 583 U.S. 281, 293 (2018). As the Supreme Court explained:

> By the time a final order of removal was eventually entered, the allegedly excessive detention would have already taken place. And of course, it is possible that no such order would ever be entered in a particular case, depriving that detainee of any meaningful chance for judicial review.

Id. Paragraph 1252(b)(9) thus poses no bar to this Court's jurisdiction. *See also, e.g.*, *Salazar v. Casey*, No. 25-CV-2784 JLS (VET), 2025 WL 3063629, at *3 (S.D. Cal. Nov. 3, 2025) (explaining § 1252(b)(9) did not bar re-detention claim because it does not apply to "claims that are independent of or collateral to the removal process").

Lastly, and for similar reasons, § 1252(e)(3) is inapplicable. That paragraph "addresses 'challenges to the removal process itself, not to the detentions attendant upon that process.'" *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1170 (W.D. Wash. 2023) (citation omitted). *Padilla* relied on *Jennings* and applied "the same logic" to conclude that § 1252(e)(3) did not apply because the plaintiffs—a class of individuals detained under § 1225(b)—"challenge[d] only the constitutionality of their detention," and did not seek relief that "implicate[d] the removal system." *Id.*; *see also, e.g.*, *Munoz Materno v. Arteta*, No. 25 Civ. 6137 (ER), 2025 WL 2630826, at *10 (S.D.N.Y. Sept. 12, 2025) (finding that § 1252(e)(3) did not bar challenge to re-detention of individual previously paroled, because the petitioner did not "challenge the lawfulness of any particular statute, regulation, or written policy or procedure"). The Court should find that § 1252(e)(3) is likewise inapposite.

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II. The *Mathews* test demonstrates Petitioners' due process rights were violated.

Petitioners' central claim is that prior to re-detention, due process required ICE to demonstrate by clear and convincing evidence that they violated their conditions of release so as to now pose a flight risk or danger to the community. *See, e.g.*, Dkt. 1 ¶¶ 69–85.[1] In recent weeks and months, courts around the country have repeatedly and resoundingly held that due process requires exactly this protection. *See*, *e.g.*, *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025) (granting habeas petition, ordering immediate release due to lack of pre-deprivation hearing, and requiring adequate notice and an immigration court hearing prior to any future re-detention); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *9 (W.D. Wash. Oct. 7, 2025) (same); *Y.M.M. v. Wamsley*, No. 2:25-CV-02075, 2025 WL 3101782 (W.D. Wash. Nov. 6, 2025) (same); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *8 (E.D. Cal. Aug. 21, 2025) (same); *Kumar v. Wamsley*, No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *3 (W.D. Wash. Sept. 17, 2025) (granting TRO and ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *7 (N.D. Cal. July 24, 2025) (granting preliminary injunction and ordering that petitioner not be re-detained without a pre-deprivation hearing before a neutral immigration judge where the government must demonstrate by clear and convincing evidence that she is a flight risk or danger); *Duong v. Kaiser*, No. 25-CV-07598-JST, 2025 WL 2689266, at *7 (N.D. Cal. Sept. 19, 2025) (same). This case is no different, and accordingly, the Court should grant the habeas petition.

[1] Respondents' substantive due process arguments, Dkt. 17 at 9–10, are misplaced because Petitioners claim only procedural due process violations, Dkt. 1 ¶¶ 82–85.

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Courts analyzing this question have employed the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test. *See, e.g.*, Dkt. 16 at 7.[2]

A. Petitioners' private interest is weighty.

Petitioners Francois, Davila, and Pinto have "a very strong private interest in not being re-detained." Dkt. 16 at 8. This interest is "the most elemental of liberty interests." *Id.* (citation omitted); *see also, e.g.*, *Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner had "an exceptionally strong interest in freedom from physical confinement" (citation omitted)); *Ledesma Gonzalez*, 2025 WL 2841574, at *7 (declaring that petitioner's liberty interest "is a fundamental interest that must be accorded significant weight").

In their return, Respondents do not raise new arguments with respect to Petitioners' liberty interest that the Court did not previously address. They argue that noncitizens have fewer rights than citizens, *see* Dkt. 17 at 10–11, but this "does not negate Petitioners' liberty interest in not being detained," Dkt. 16 at 8 (citation modified). Nor do Petitioners argue they are entitled to the same rights as U.S. citizens. *See generally* Dkts. 1 & 8.

Respondents also claim that Petitioners "cannot claim that the government promised them ongoing freedom" since they were released on parole. Dkt. 17 at 11. But Petitioners argue "that the *Constitution* protects [their] interest in liberty by requiring due process if it is to be deprived." *E.A. T.-B.*, 2025 WL 2402130, at *4 (emphasis added) (concluding "the Court agrees with this proposition"). The fact of their parole does not diminish their liberty interest, for 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."

[2] As their TRO motion, Dkt. 8, supplements many of the factors below, Petitioners' response here focuses primarily on Respondents' specific arguments in their return, Dkt. 17.

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Dkt. 16 at 7 (citation modified); *see also, e.g.*, *Ramirez Tesara*, 2025 WL 2637663, at *3 ("When he was released from his initial detention on parole, Petitioner took with him a liberty interest which is entitled to the full protections of the due process clause."); *Hernandez*, 2025 WL 2420390, at *1–2, 4–5 (recognizing "protected liberty interest in his release" for petitioner who had been released from immigration custody for fourteen months); Dkt. 8 at 8–9 (listing additional caselaw support). "That the express terms of the parole notice allowed for discretionary termination or expiration does not somehow obviate the need for the Government to provide a [*sic*] individualized hearing prior to re-detaining the parolee" as a constitutional matter. *Ramirez Tesara*, 2025 WL 2637663 at *3.[3]

As this Court found, "Petitioners' reliance on [their due process liberty interest]" has only grown upon their release from detention. Dkt. 16 at 8. Their interest in their continued liberty is thus "weighty," *Ramirez Tesara*, 2025 WL 2637663 at *3, and this factor continues to weigh strongly in their favor.

B. The risk of erroneous deprivation is high.

As the Court previously recognized, the risk of erroneous deprivation in this case is "high." Dkt. 16 at 9; *see also, e.g.*, *Ramirez Tesara*, 2025 WL 2637663 at *4 (agreeing that "re-detainment without a hearing results in a risk of erroneous deprivation of [petitioner's] protected interest"); *E.A. T.-B.*, 2025 WL 2402130, at *4 (same). Although, as here, "the Government may believe it has a valid reason to detain Petitioners," that belief "does not eliminate its obligation to effectuate the detentions in a manner that comports with due process." Dkt. 16 at 9 (citation modified). Petitioners' re-detention must still "bear[] [a] reasonable relation" to a valid

[3] Because Petitioners raise a constitutional claim, any arguments regarding their statutory or regulatory rights, Dkt. 17 at 8, "do[] not address [their] concern and cannot carry the day," *E.A. T.-B.*, 2025 WL 2402130, at *4.

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government purpose: here, preventing flight or protecting the community against dangerous individuals. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (second alteration in the original) (citation omitted)); *see also, e.g.*, *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) ("The government has legitimate interests in protecting the public and in ensuring that noncitizens in removal proceedings appear for hearings, but any detention incidental to removal must bear a reasonable relation to its purpose." (citation modified)). Only a hearing before a neutral decisionmaker—where ICE must prove that re-detention is justified because Petitioners pose a flight risk or danger—can ensure that this "reasonable relation" to a valid government purpose exists.

First and critically, Respondents never provided advanced notice or a hearing before a neutral decisionmaker where they were required to show that Petitioners violated the conditions of release and are now a flight risk or danger. The Supreme Court has repeatedly explained that an individual is *not* afforded due process where it is simply the "government enforcement agent" who makes the decision about the propriety of detention. *Coolidge*, 403 U.S. at 450. That process—which is exactly what occurred here, Dkt. 17 at 3–6—is a far cry from the hearing before a neutral decisionmaker that due process requires, *see, e.g.*, *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972) ("Whatever else neutrality and detachment might entail, it is clear that they require severance and disengagement from activities of law enforcement."); *see also, e.g.*, *Gerstein v. Pugh*, 420 U.S. 103, 112–13 (1975) (explaining the need for the participation of "a neutral and detached magistrate instead of . . . by the officer engaged in the often competitive enterprise of ferreting out crime" (citation omitted)). Indeed, as another court analyzing the lawfulness of Respondents' re-detention of a noncitizen recently observed, "[t]he government's

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unilateral determination that re-detention is warranted is far less likely to be correct than the decision reached by a neutral adjudicator in a bond hearing." *Duong*, 2025 WL 2689266, at *7.

Second, Respondents miss the point in arguing that the risk of deprivation here is "minimal" because "there is no [statutory] requirement for . . . a hearing before" re-detention in this context, and that the Supreme Court "has warned courts against reading additional procedural requirements into the" Immigration and Nationality Law. Dkt. 17 at 11. Petitioners are arguing that the Due Process Clause, not a statute, requires such a hearing. *See E.A. T.-B.*, 2025 WL 2402130, at *4.

Third, although Respondents' purported justification for re-detaining Petitioners is not relevant to the *Mathews* analysis, it is worth noting that their attempt to show that re-detention of Petitioners was not "arbitrary," Dkt. 16 at 9, only underscores the need for a pre-deprivation hearing before a neutral decisionmaker. With respect to Mr. Francois, Respondents have not rebutted his showing of compliance with immigration requirements. *Compare* Dkt. 17 at 3–4, *with* Dkt. 3 ¶¶ 3–6. Their bald assertion that he was re-detained and "processed for expedited removal," *e.g.*, Dkt. 17 at 7–8, does not address his liberty interest and raises no new information regarding whether Respondents' re-detention of him "comport[ed] with due process," Dkt. 16 at 9 (citation omitted).

With respect to Mr. Davila, Respondents newly point to two alleged parole compliance violations without showing that either were considered in a pre-deprivation assessment for flight or danger: (1) informing DHS of a traffic stop within three days of the incident and (2) failing to report to DHS in June 2025. Dkt. 17 at 4–5. In fact, Respondents' reliance on these allegations to justify re-detention demonstrates the high risk of arbitrary and erroneous deprivation of liberty absent a neutral decisionmaker. For example, Respondents ignore that Mr. Davila's instructions

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were to "notify ISAP immediately or as soon as possible" in the event of contact with law enforcement. *Compare* Dkt. 6-6 at 8, *with* Dkt. 17 at 4–5. Moreover, even assuming "immediate" notification was required, Respondents do not explain the timeframe needed to satisfy it—this vague and undefined term only serves to emphasize the arbitrary nature of Mr. Davila's re-detention. And to the extent that Respondents allege a failure to report in June, they do not refute or even address Mr. Davila's recollection that on "one occasion" when he experienced problems with the mobile application, ICE informed him that they were aware of the technical issues and that it "was not an issue" for him. *Compare* Dkt. 4 ¶ 3, *with* Dkt. 17 at 4–5. Regardless of whether the parties reference the same incident,[4] Respondents have not rebutted Mr. Davila's showing that he was in communication with ICE regarding any trouble checking in and that he presented himself on September 17, 2025 as requested. *See* Dkt. 4 ¶¶ 3, 5–6. This "does not paint the picture of a flight risk." *Ramirez Tesara*, 2025 WL 2637663, at *4.

The risk of erroneous deprivation is particularly acute for Mr. Pinto, whose re-detention remains "blatantly baseless" even in the face of Respondents' post-hoc justifications. *See* Dkt. 16 at 9; Dkt. 18 ¶¶ 22–26. Rather than offer any testimony or even a Form I-213 to contradict that ICE officers arrested Mr. Pinto because he "missed" a rescheduled court hearing, Dkt. 5 ¶ 14; Dkt. 6-12, Respondents attempt to introduce new rationales for his re-detention: (1) a failure to report to the Yakima ICE office on October 10, 2024 and (2) a failure to report to the ISAP office "as instructed," Dkt. 17 at 5–6. Both of the proffered reasons are belied by the record, which shows Mr. Pinto's eagerness to present himself whenever notified of an appointment for either himself or his wife. *E.g.*, Dkt. 5 ¶¶ 7–8; Second Declaration of Jean Carlos Pinto Bautista

[4] Respondents allege Mr. Davila failed "to report to DHS" one time—on June 17, 2025. Dkt. 17 at 5. It is unclear whether this "failure" refers to the same incident Mr. Davila recalls.

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¶ 5. Mr. Pinto does not recall ever receiving a letter requesting his presence for an October 2024 appointment and has explained that he "actually went to an appointment in Yakima on October 9, 2024, to provide [biometrics] for my work permit application." Pinto Decl. ¶ 3; *see also* Ng Decl., Ex. A. Even assuming there was a missed appointment, Mr. Pinto voluntarily presented himself at the Yakima ICE office on August 25, 2025, in response to his wife's receipt of an appointment notice. Pinto Decl. ¶ 5; Ng Decl., Ex. B. Notably, no such missed appointment was mentioned to him on that date. After updating the whole family's current address with ICE, Mr. Pinto attended a second check-in at that same day at an office in Kennewick, where he was expressly told—in response to his affirmative question—that there was no need for him to enroll in a mobile check-in application. *Id.*; *contra* Dkt. 17 at 5–6. This record of affirmative attendance for USCIS appointments, for court, and for in-person check-ins does not support a finding that Mr. Pinto was a flight risk. In fact, Respondents' claimed justifications for re-detention only emphasize the high risk of erroneous deprivation that exists absent a hearing before a neutral decisionmaker. *Cf. Ledesma Gonzalez*, 2025 WL 2841574, at *6 (agency rationale that "'runs counter to the evidence' before the agency" is "arbitrary and capricious" (citation omitted)).

For all these reasons, the record before the Court continues to demonstrate that the second *Mathews* factor weighs in favor of Petitioners. *See, e.g.*, *Garro Pinchi*, 2025 WL 2084921, at *5 (declaring, in the case of a detained noncitizen who was re-detained without pre-deprivation hearing, that "there is a significant risk that even the two-day curtailment of liberty that [she] already suffered upon her re-detention by ICE was not justified by any valid interest" and concluding that "[p]roviding her with the procedural safeguard of a pre-detention hearing will have significant value in helping ensure that any future detention has a lawful basis").

C. The government's interest also weighs in Petitioners' favor.

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Respondents' bare, generalized assertions as to the government's "heightened" interest in "the immigration detention context" and in "preventing [noncitizens] from remaining in the United States in violation of our law," Dkt. 17 at 11–12 (citation modified), do not refute the Court's previous finding that its interest is "minimal," Dkt. 16 at 9–10. Respondents have not elaborated on their "heightened interest" as applicable to Petitioners' re-detention. *Compare* Dkt. 16 at 9, *with* Dkt. 17 at 11–12. Nor have they explained how Petitioners' pursuit of protection from deportation—something they are lawfully entitled to seek, *see, e.g.*, *Campos v. Nail*, 43 F.3d 1285, 1288 (9th Cir. 1994)—is a "violation of our law," Dkt. 17 at 12. They have similarly not even argued that "providing pre-detention hearings and additional procedures would impose *any* burdens." *Compare* Dkt. 16 at 9 (emphasis added), *with* Dkt. 17 at 11–12. Finally, they have not responded to the Court's observation that protecting individuals from constitutional violations is in "the entire public's interest." *Compare* Dkt. 16 at 10, *with* Dkt. 17 at 11–12; *see also* Dkt. 8 at 13–14, Dkt. 1 ¶¶ 77–80. Petitioners do not dispute that Respondents have an "interest in enforcing compliance with its orders of release on recognizance," Dkt. 17 at 12—they simply argue that Respondents must pursue this interest within the bounds of the Constitution.

As other courts assessing the legality of re-detention without a pre-deprivation hearing before a neutral decisionmaker have recently found, "the Government's interest in re-detaining non-citizens previously released without a hearing is low: although it would have required the expenditure of finite resources (money and time)" to provide a pre-deprivation hearing, "those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue." *E.A. T.-B.*, 2025 WL 2402130, at *5; *Ledesma Gonzalez*, 2025 WL 2841574, at *8 (concluding government interest to be low even if "requiring pre-detention process would present *some*

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administrative burden"); *Garro Pinchi*, 2025 WL 2084921, at *6 ("[I]t is likely that the cost to the government of detaining [petitioner] pending any bond hearing would significantly exceed the cost of providing her with a pre-detention hearing.").

III. The Court should afford limited weight to Respondents' evidence.

To the extent it considers Officer Rodriguez's declaration, Dkt. 18, the Court should accord it little probative weight because it contains statements which are inadmissible under the Federal Rules of Evidence as self-serving hearsay or violations of the best evidence rule.

The statements concerning Mr. Pinto's August 25 check-in and alleged failure to report to the ISAP office "as instructed" are inadmissible hearsay: these are out-of-court assertions submitted for the truth of matters asserted. Fed. R. Evid. 801(c).[5] *See, e.g.*, Dkt. 18 ¶¶ 24–25. It also appears that neither of those statements are from his own personal knowledge. *See* Dkt. 18 ¶ 3 (explaining information comes from his review of "DHS's records and databases, my professional knowledge and experience, and from other individuals employed by ICE"). The rules of evidence reflect that a witness must have "personal knowledge of the matter" to which they are attesting. Fed. R. Evid. 602. By contrast, Mr. Pinto has provided a first-hand accounting of what he was instructed to do (and not do) at both August 25 check-ins he attended. *See* Dkt. 5 ¶ 8; Second Pinto Decl. ¶¶ 5–6.

[5] The plain text of the Federal Rules of Evidence demonstrate they generally apply in proceedings under 28 U.S.C. § 2241. Rule 1101 states that the rules govern "civil cases and proceedings," and then lists several exceptions, none of which includes habeas proceedings. Fed. R. Evid. 1101(b), (d). The comment to Federal Rule of Evidence 1101 also clarifies that "[t]he rule does not exempt habeas corpus proceedings." Fed. R. Evid. 1101 advisory comm. note. Consistent with this reading, the Supreme Court has applied the Federal Rules of Evidence to determine admissibility in a habeas proceeding. *See Amadeo v. Zant*, 486 U.S. 214, 227 n.5 (1988).

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In so far as Officer Rodriguez's statements—about Mr. Pinto's purported compliance history and reason for his re-detention, Dkt. 18 ¶¶ 22–26, and Mr. Davila's alleged failure to report to DHS on June 17, 2025 and reason for his re-detention, *id.* ¶¶ 17–18—come from "DHS's records and databases," *id.* ¶ 3, the best evidence rule requires that those records, rather than Officer Rodriguez's summary of them, be produced, *see* Fed. R. of Evid. 1002 ("An original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise."). "The elementary wisdom of the best evidence rule rests on the fact that the document is a more reliable, complete and accurate source of information as to its contents and meaning than anyone's description." *Gordon v. United States*, 344 U.S. 414, 421 (1953) (finding lower court had erred in finding that admission of contradiction was sufficient and denying request for production of written statements where witness testified he had provided earlier written statements that contradicted his testimony). The value of such records is perhaps most evident in Mr. Pinto's case, where the reason he was offered for his re-detention contradicts Officer Rodriguez's justification. *Compare* Dkt. 5 ¶ 14, *with* Dkt. 18 ¶ 26. At minimum, it would have been appropriate for Respondents to submit Petitioners' arrest records (Form I-213) rather than an officer's summary of those records.

In sum, even if the Court inquires as to whether the basis for re-detaining Petitioners was valid (which is irrelevant as to whether their re-detention comported with the requirements of procedural due process), it should not accord much, if any, weight to Officer Rodriguez's statements, which are hearsay and violate the best evidence rule.

CONCLUSION

Each of the *Mathews* factors favors Petitioners. The Court should therefore grant the habeas petition and order that Respondents not re-detain Petitioners "until after an immigration

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court hearing is held (with adequate notice) to determine whether detention is appropriate." *E.A. T.-B.*, 2025 WL 2402130, at *6.

Respectfully submitted this 17th of November, 2025.

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WORD COUNT CERTIFICATION

Pursuant to Local Civil Rule 7, I certify that the foregoing response has 4,179 words and complies with the word limit requirements of Local Civil Rule 7(e).

s/ Amanda Ng
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