

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MOISES DAVID BONILLA MEJIA,

Petitioner,

v.

LAURA HERMOSILLO, et al.,

Respondent.

Case No. 2:25-cv-02196-TMC

ORDER GRANTING PETITIONER'S  
WRIT OF HABEAS CORPUS

**I. INTRODUCTION**

Petitioner Moises David Bonilla Mejia's ("Bonilla") is an individual who is detained at the Northwest Immigration and Customs Enforcement Processing Center ("NWIPC") in Tacoma, Washington. Dkt. 1 ¶ 1. Bonilla was detained by United States Immigration and Customs Enforcement ("ICE") on November 3, 2025 under 8 U.S.C. § 1231(a) to facilitate his removal from the United States based on a removal order issued *in absentia* by an Immigration Judge ("IJ") on June 16, 2025. Dkt. 9 at 3–4.

Before the Court is Bonilla's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Dkt. 1. Bonilla's petition also invokes this Court's federal question jurisdiction under 28 U.S.C. § 1331. Dkt. 1 ¶ 12. Bonilla argues that his detention and Respondents' efforts to remove him from the country violate the Immigration and Nationality Act ("INA") and the Due Process

1 Clause of the United States Constitution because he does not yet have a final removal order and  
2 he was not provided any notice or opportunity to be heard before he was re-detained. Dkt. 1 at  
3 13–14. Bonilla seeks release from custody and an injunction prohibiting his re-detention absent  
4 notice and an opportunity to be heard. *Id.* at 15–16. On November 19, 2025, this Court entered a  
5 temporary restraining order prohibiting Respondents<sup>1</sup> from removing Bonilla from the country or  
6 the Western District of Washington during these habeas proceedings. Dkt. 13.

7 Because Federal Respondents now concede that under binding Ninth Circuit precedent,  
8 Bonilla’s removal order is not final, and they do not dispute that Bonilla had no notice or  
9 opportunity to be heard before his re-detention, the Court GRANTS the habeas petition and  
10 ORDERS Respondents to release Bonilla from custody within ONE day of this Order. The Court  
11 also grants Bonilla’s request for injunctive relief as set forth in the conclusion of this Order.

## 12 II. BACKGROUND

13 Bonilla, his wife, and their two children entered the United States on March 29, 2024.  
14 Dkt. 9 at 2; *see* Dkt. 2-1 at 47–50. They were arrested by United States Border Patrol agents on  
15 that same day and released several days later. *Id.* Respondents initiated removal proceedings  
16 against Bonilla and his family, charging them with removability under INA sections  
17 212(a)(7)(a)(i)(I) and 212(a)(6)(A)(i). Dkt. 10-1 at 2; Dkt. 9 at 2. Bonilla’s wife applied for  
18 asylum on behalf of the entire family, and they appeared for all their preliminary hearings before  
19 the immigration courts. *See* Dkt. 2-1 at 1–2, 47–50, 87–95; Dkt. 9 at 3.

---

22 <sup>1</sup> The United States Attorney’s Office has appeared on behalf of Respondents Laura Hermosillo,  
23 ICE ERO Seattle acting Field Office Director; Kristi Noem, Secretary, United States Department  
24 of Homeland Security; Pamela Bondi, United States Attorney General; and United States  
Department of Homeland Security (collectively “Federal Respondents”). Respondent Bruce  
Scott, Warden, Northwest ICE Processing Center has not appeared.

1 A final merits hearing on their asylum application was scheduled for 8:30 AM on June  
2 16, 2025. Dkt. 9 at 3. However, because of the illness of one of their children the night before,  
3 unexpected lack of childcare, heavy traffic due to the influx of tourists for the FIFA Club World  
4 Cup, the presence of community protesters outside the Seattle Immigration Court, and delays in  
5 passing through security, Bonilla and his family arrived at their courtroom late with the  
6 courtroom's door closed and locked. Dkt. 2-1 at 23–25, 33–39. While waiting for Bonilla and his  
7 family to appear, the IJ issued a removal order *in absentia*, ordering Bonilla and his family's  
8 removal to Honduras. Dkt. 2-1 at 1–2.

9 On July 18, 2025, Bonilla and his family moved to rescind the removal order issued *in*  
10 *absentia* and reopen their removal proceedings under INA § 240(b)(5). Dkt. 2-1 at 9–18. On July  
11 29, 2025, the IJ denied the motion, finding that they “failed to demonstrate that any exceptional  
12 circumstances outside of their control justify their failure to appear.” *Id.* at 71. On August 19,  
13 2025, Bonilla and his family filed a notice of appeal of the IJ's denial of their motion. *Id.* at 77–  
14 86. That appeal is pending before the BIA.

15 Bonilla was arrested after visiting the Tukwila office for ICE's Intensive Supervision  
16 Appearance Program on November 3, 2025. Dkt. 2 at 3. Unable to locate Bonilla after his arrest,  
17 his counsel reached out to Respondents and learned that he was being detained at NWIPC.  
18 Dkt. 2-1 at 100. His counsel asked whether he would be “scheduled for removal in the next 48  
19 hours,” and was informed that “NWIPC has three flights that leave regularly” and if they wanted  
20 to take any legal action, it “would need to be done as soon as possible.” *Id.* at 99.

21 Bonilla filed the instant habeas petition and a motion for a temporary restraining order  
22 (“TRO”) on November 4, 2025. Dkts. 1–2. Bonillo's TRO motion sought an order retraining  
23 Respondents from removing him from the Western District of Washington during the pendency  
24 of his habeas proceeding. Dkt. 2. That request was provisionally granted, Dkt. 3, and extended,

1 Dkt. 4. Respondents filed their response to the habeas petition on November 21, 2025. Dkt. 14.  
2 Bonilla filed his traverse on November 24, 2025. Dkt. 17.

### 3 III. LEGAL STANDARDS

4 “Writs of habeas corpus may be granted by...the district courts...within their respective  
5 jurisdictions.” 28 U.S.C. § 2241(a). Habeas petitioners must prove by the preponderance of the  
6 evidence that they are “in custody in violation of the Constitution or laws or treaties of the  
7 United States.” *Davis v. Woodford*, 384 F.3d 628, 638 (9th Cir. 2004); 28 U.S.C. § 2241(c).

8 The federal courts have “long recognized the existence of an implied cause of action  
9 through which plaintiffs may seek equitable relief to remedy a constitutional violation.” *Roman*  
10 *v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020). A plaintiff seeking a permanent injunction must  
11 demonstrate (1) that he has suffered an irreparable injury; (2) that remedies available at law, such  
12 as monetary damages, are inadequate to compensate for that injury; (3) that, considering the  
13 balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and  
14 (4) that the public interest would not be disserved by a permanent injunction. *eBay Inc. v.*  
15 *MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006). “Once a [constitutional] right and a violation  
16 have been shown, the scope of a district court’s equitable powers to remedy past wrongs is  
17 broad, for breadth and flexibility are inherent in equitable remedies.” *Roman*, 977 F.3d at 942  
18 (quoting *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971)).

### 19 IV. DISCUSSION

20 Bonilla’s habeas petition contains two claims, one under the INA and one under the Fifth  
21 Amendment’s Due Process Clause. Dkt. 1 at 13–15. With his first claim, Bonilla argues that his  
22 removal from the United States prior to a final removal order violates the INA. *Id.* at 13. With  
23 his second claim, Bonilla argues that his re-detention without notice and a pre-deprivation  
24

1 hearing violates his rights under the Due Process Clause of the Fifth Amendment. *Id.* at 14–15.  
2 The Court will consider the issue of his removal and his re-detention in turn.

3 **A. Bonilla may not be detained under 8 U.S.C. § 1231(a) or removed from the**  
4 **United States because his removal order is not final.**

5 As Federal Respondents acknowledge, ICE detained Bonilla “pursuant to 8 U.S.C.  
6 § 1231(a) to execute his removal order.” Dkt. 14 at 1. Under the INA, “[t]he removal period  
7 begins” on the “date [Bonilla’s] order of removal becomes administratively final.” 8 U.S.C.  
8 § 1231(a)(1)(B)(i); *Johnson v. Guzman Chavez*, 594 U.S. 523, 528 (2021). Bonilla argues that,  
9 under *Cui v. Garland*, 13 F.4th 991 (9th Cir. 2021), his removal order is not final and removing  
10 him from the United States without a final removal order would violate the INA. Dkt. 1 at 3.  
11 Although Respondents argue that *Cui* was wrongly decided, they “do not dispute that *Cui* is a  
12 valid decision that is binding on this Court.” Dkt. 14 at 2. Respondents also agree that “the issue  
13 in this case is whether the *in absentia* removal order is a final order of removal.” *Id.* at 1.

14 In *Cui*, the Ninth Circuit considered the question of finality when applied to removal  
15 orders issued *in absentia*. 13 F.4th at 996. The *Cui* court first noted that, generally, removal  
16 orders become final “upon the earlier of (i) a determination by the [BIA] affirming such order; or  
17 (ii) the expiration of the period in which the alien is permitted to seek review of such order by  
18 the [BIA].” *Id.* (quoting 8 U.S.C. § 1101(a)(47)(B)). The court then noted that removal orders  
19 issued *in absentia*, unlike removal orders generally, “may not be appealed to the BIA without  
20 first filing a motion to reopen the order before the IJ within 180 days of the order.” *Id.* (citing 8  
21 U.S.C. § 1229a(b)(5)(C)(i)). Given the 180-day period, the *Cui* court concluded that removal  
22 orders issued *in absentia* become “final at the end of the 180-day period” if no motion to reopen  
23 is filed or after BIA review. *Id.*  
24

1 Bonilla’s removal order was issued *in absentia* on June 16, 2025. Dkt. 2-1 at 1. On July  
 2 18, 2025, Bonilla and his family moved to reopen. *Id.* at 9–18. On July 29, 2025, the IJ denied  
 3 the motion. *Id.* at 71. On August 19, 2025, Bonilla and his family filed a timely notice of appeal  
 4 of the IJ’s denial of their motion. *Id.* at 77–86. Because that appeal is pending before the BIA,  
 5 Bonilla’s removal order issued *in absentia* is not final. Under the INA, “[t]he removal period  
 6 begins” on the “date [Bonilla’s] order of removal becomes administratively final.” 8 U.S.C.  
 7 § 1231(a)(1)(B)(i). Therefore, Bonilla’s removal period has not begun, and he may not yet be  
 8 detained under 8 U.S.C. § 1231(a) or removed from the United States.

9 **B. Bonilla’s re-detention without written notice and a pre-deprivation hearing**  
 10 **violates his rights under the Due Process Clause of the Fifth Amendment.**

11 Before his re-detention on November 3, 2025, Federal Respondents had permitted  
 12 Bonilla to live in the community during his removal proceedings under an order of supervision.  
 13 See Dkt. 9 at 2; Dkt. 17-1 at 1. Although Federal Respondents address only the effort to detain  
 14 Bonilla under section 1231, their supporting declaration from Deportation Officer Madison  
 15 Piersoll states that Bonilla was also detained based on “Alternative to Detention (‘ATD’)  
 16 violations.” Dkt. 9 at 4. Bonilla argues that prior to his re-detention, the Due Process Clause  
 17 requires Respondents to provide “written notice and a pre-deprivation hearing before a neutral  
 18 decisionmaker to determine whether re-detention is warranted based on danger or flight risk.”  
 19 Dkt. 1 at 15. Bonilla contends that because he was not provided notice or a hearing before ICE  
 20 took him into custody, the Court must order his release and prohibit his future re-detention  
 21 without due process. *Id.* at 15–16. Respondents have provided no response. See Dkt. 14.

22 “*Mathews* remains a flexible test” applicable to the “immigration detention context.”  
 23 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (citing *Mathews v. Eldridge*,  
 24 424 U.S. 319 (1976) and *Landon v. Palsencia*, 459 U.S. 21, 34 (1982))). “Under *Mathews*, the

1 ‘identification of the specific dictates of due process generally requires consideration of three  
 2 distinct factors.’” *Id.* (quoting *Mathews*, 424 U.S. at 334–35). “First, the private interest that will  
 3 be affected by the official action; second, the risk of an erroneous deprivation of such interest  
 4 through the procedures used, and the probable value, if any, of additional or substitute procedural  
 5 safeguards; and finally, the Government’s interest, including the function involved and the fiscal  
 6 and administrative burdens that the additional or substitute procedural requirement would entail.”  
 7 *Mathews*, 424 U.S. at 335. The Court will consider the three *Mathews* factors in order.

8 *1. Bonilla has a substantial “private interest” in his freedom.*

9 “Freedom from imprisonment—from government custody, detention, or other forms of  
 10 physical restraint—lies at the heart of the liberty [the Due Process Clause] protects.” *Zadvydas v.*  
 11 *Davis*, 533 U.S. 678, 690 (2001). “Courts in this circuit have found that the government’s  
 12 subsequent release of an individual from detention creates an implicit promise that the  
 13 individual’s liberty will be revoked only if they fail to abide by the conditions of their release.”  
 14 *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025 WL  
 15 2637663, at \*3 (W.D. Wash. Sept. 12, 2025) (citation modified).

16 After being released “approximately 18 months ago,” Bonilla and his family laid roots in  
 17 Washington State. Dkt. 17 at 3; Dkt. 17-1 ¶ 4. Bonilla worked as a mechanic and provided the  
 18 primary income for his family. Dkt. 17-1 ¶ 4. Since his detention, his family is struggling to  
 19 afford food. *Id.* ¶ 13. These actions “since his initial release show that [Bonilla] has not only  
 20 reasonably relied on [his liberty] interest, but that the interest is weighty.” *Ramirez Tesara*, 2025  
 21 WL 2637663, at \*3. The first *Mathews* factor leans in favor of Bonilla.

22 *2. The risk of erroneous deprivation is high.*

23 “[R]e-detainment without a hearing results in a risk of erroneous deprivation of [one’s]  
 24 protected interest.” *Ramirez Tesara*, 2025 WL 2637663, at \*4. The BIA, in *Matter of Sugay*, 17

I. & N. Dec. 637, 640 (B.I.A. 1981), held that the revocation of release requires a change of circumstances since the noncitizen was initially released. More specifically, a material change in circumstances as to whether “the noncitizen poses a danger to the community or an unreasonable risk of flight.” *United States v. Cisneros*, No. 19-CR-00280-RS-5, 2021 WL 5908407, at \*3 (N.D. Cal. Dec. 14, 2021) (citing *In re Guerra*, 24 I. & N. Dec. 37 (BIA 2006)). The Ninth Circuit and its lower courts have adopted *Sugay*’s limit. See *Panosyan v. Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021); see also *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at \*5 (W.D. Wash. Oct. 7, 2025).

It is not disputed that Bonilla was once at liberty. It is also not disputed that no re-detention process was given to Bonilla. Federal Respondents have not provided any evidence either to oppose Bonilla’s Due Process claim or to support his re-detention based on alleged violations of the Alternatives to Detention program. The second *Mathews* factor leans in favor of Bonilla.

### 3. *The Government’s interest in detention without a hearing is minimal.*

Finally, the Court must consider “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335. “[T]he Government’s interest in re-detaining non-citizens previously released without a hearing is low.” *Ledesma Gonzalez*, 2025 WL 2841574, at \*8 (citing *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019)). Respondents provide no arguments or insight into what burdens a re-detention hearing would impose. It is assumed that “requiring pre-detention process would present *some* administrative burden.” *Id.* However, given “the high risk of erroneous deprivation” and “the fundamental liberty interest at stake,” the complete absence of pre-deprivation process Federal Respondents provided to Bonilla is “constitutionally deficient.” *Id.* The last factor leans in favor of Bonilla.



1 With all *Matthews* factors leaning in Bonilla’s favor, the Court finds that Bonilla’s  
2 continued detention without advanced notice and a re-detention hearing violates his rights under  
3 the Due Process Clause of the Fifth Amendment.

4 **C. The Court may grant injunctive relief.**

5 In addition to his release from custody, Bonilla seeks an injunction prohibiting his re-  
6 detention during the pendency of his removal proceedings absent notice and a pre-deprivation  
7 hearing. Dkt. 1 at 16. While Ninth Circuit authority is unclear regarding the scope of injunctive  
8 relief available in response to habeas claims, so long as a habeas petitioner has also invoked the  
9 Court’s equitable power through its general federal question jurisdiction, the Court has broad  
10 authority to tailor equitable relief to remedy the underlying constitutional violation. *Roman v.*  
11 *Wolf*, 977 F.3d 935, 941–42 (9th Cir. 2020).

12 “Courts have long recognized the existence of an implied cause of action through which  
13 plaintiffs may seek equitable relief to remedy a constitutional violation.” *Id.* at 941. Where  
14 habeas petitioners raise Due Process claims and have also invoked the Court’s jurisdiction under  
15 28 U.S.C. § 1331, the Court has “the authority both to entertain [Petitioner’s] constitutional  
16 challenges and to grant injunctive relief in response to them,” “irrespective of the accompanying  
17 habeas petition.” *Id.* at 941–42. “Once a [constitutional] right and a violation have been shown,  
18 the scope of a district court’s equitable powers to remedy past wrongs is broad, for breadth and  
19 flexibility are inherent in equitable remedies.” *Id.* at 942 (quoting *Swann v. Charlotte-*  
20 *Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971)).

21 A plaintiff seeking a permanent injunction must demonstrate (1) that he has suffered an  
22 irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate  
23 to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff  
24 and defendant, a remedy in equity is warranted; and (4) that the public interest would not be

1 disserved by a permanent injunction. *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391  
 2 (2006). Bonilla meets this standard. He has shown that he suffered irreparable injuries for which  
 3 monetary damages are likely unavailable or inadequate to compensate him: his unlawful  
 4 detention, violation of his due process rights, and separation from his family, for whom he is the  
 5 primary source of income. *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017)  
 6 (“[S]eparated families . . . are substantial injuries and even irreparable harms.”); *Melendres v.*  
 7 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (“It is well established that the deprivation of  
 8 constitutional rights ‘unquestionably constitutes irreparable injury.’”) (quoting *Elrod v. Burns*,  
 9 427 U.S. 347, 373 (1976)). He is likely to suffer that injury again if re-detained without the  
 10 protections required by the Due Process clause. The balance of equities tips sharply in Bonilla’s  
 11 favor, because his interest in avoiding the unlawful deprivation of his liberty outweighs the  
 12 minimal burden on Federal Respondents to provide notice and an opportunity to be heard if they  
 13 wish to re-detain him. Finally, “it is always in the public interest to prevent the violation of a  
 14 party’s constitutional rights.” *Riley’s Am. Heritage Farms v. Elsasser*, 32 F.4th 707, 731 (9th  
 15 Cir. 2022) (citation omitted).

## 16 V. CONCLUSION

17 For the reasons explained above, the Court ORDERS as follows:


- 18 1. The petition for writ of habeas corpus (Dkt. 1) is GRANTED.
- 19 2. Within ONE day of this Order, Respondents must release Petitioner Moises David  
 20 Bonilla Mejia from custody subject to the terms of his most recent order of  
 21 supervision.
- 22 3. Respondents, and their officers, agents, employees, attorneys, or others acting on  
 23 their behalf, are ENJOINED from re-detaining Bonilla during the pendency of his  
 24

1 removal proceedings based on alleged violations of the terms of his supervision  
2 absent written notice and a pre-detention hearing in Immigration Court.

- 3 4. This injunction does not affect Respondents' ability to detain and remove Bonilla  
4 if his removal order becomes administratively final.

5 Any fee petition should be filed within the deadlines set by the Equal Access to Justice  
6 Act, 28 U.S.C. § 2412.

7  
8 Dated this 26th day of November, 2025.

9   
10 Tiffany M. Cartwright  
11 United States District Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24