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11 **Request for student practice filed concurrently*
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13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 Jonathan Alexis Bonilla,

16 *Petitioner,*

17 v.

18 Christopher J. LAROSE, Warden, Otay
19 Mesa Detention Center; Daniel A
20 BRIGHTMAN, Field Office Director, San
21 Diego Field Office, United States
Immigration and Customs Enforcement;
22 Todd M. LYONS, Acting Director, United
States Immigration and Customs
23 Enforcement; Markwayne MULLIN,
24 Secretary of Homeland Security; Todd
Wallace BLANCHE, Acting Attorney
25 General *in their official capacities,*

26
27 *Respondents.*
28

**Case No.: 3:26-cv-02247-TWR-
BLM**

**PETITIONER'S MOTION TO
ALTER OR AMEND
JUDGMENT**

Date and Time: **TBD**
Before: Hon. Todd Robinson

PETITIONER'S MOTION TO ALTER OR AMEND JUDGMENT
TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Petitioner hereby moves this Court to alter or amend its April 16 judgment in this case to require Respondents to immediately release Petitioner from their custody and enjoin Respondents from re-detaining Petitioner without a pre-deprivation hearing at which the government would bear the burden of proving that material changes in circumstances as to flight risk or danger justify re-detention. A hearing on this Motion will take place at a date and time to be set before the Judge assigned to this case. Petitioner supports his Motion with the attached Memorandum of Points and Authorities and exhibits.¹

¹ Pursuant to Local Rule 83.3(g) and Chamber Rules, on April 16, 2026, undersigned counsel informed Assistant U.S. Attorney Erin Dimbleby via email that Petitioner intended to file this Motion to Amend Judgment before this Court the next day. *See* Decl. of Sofía López Franco ¶ 3. Counsel then conferred in good faith with Ms. Dimbleby by phone, but the parties were unable to resolve the issue without the need to file this Motion. *Id.* ¶ 4.

INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 59(e), Petitioner Jonathan Alexis Bonilla (Mr. Bonilla) respectfully moves this Court to alter or amend its order issued yesterday granting his habeas petition and requiring Respondents to provide him with an individualized bond hearing under 8 U.S.C. 1226(a). ECF 8. Mr. Bonilla submits that in light of the constitutional violation arising from his re-detention absent a pre-deprivation hearing, release is the proper remedy here, ECF at 1 at 20. He respectfully requests that this Court alter or amend its order to provide for that relief.

STATEMENT OF FACTS

Mr. Bonilla is a 30-year-old father from Colombia. Decl. of Jonathan Alexis Bonilla in Supp. of Pet. For Writ of Habeas Corp., ECF 1-2 (“Bonilla Decl.”), at ¶¶ 2, 9. In December 2023, the Department of Homeland Security (DHS) processed and released Mr. Bonilla from immigration custody and placed him in removal proceedings. *See* Order of Release on Recognizance, ECF 1-3 Exhibit 1 (“ROR Order”). Since then, Mr. Bonilla has complied with all of the requirements of his order of release: he has never missed a court hearing or ICE check-in. Bonilla Decl. ¶ 7. Nor does he have any criminal history. *Id.* at ¶ 25. Nevertheless, U.S. Immigration and Customs Enforcement (ICE) agents summoned Mr. Bonilla to a check-in appointment in August 2025 and abruptly re-detained him, with no individualized explanation for why a change in circumstances merited his re-detention. *Id.* at ¶15. Mr. Bonilla has now languished in Respondents’ custody for over seven months, separated from his eight-year-old son and his mother. *Id.* at ¶¶ 23-24.

On April 9, 2026, Mr. Bonilla filed a habeas petition before this Court seeking his immediate release from unlawful detention and an order preventing his re-detention absent a pre-deprivation hearing to determine whether any further detention is warranted by flight risk or danger. ECF 1. On April 15, this Court

1 recognized Petitioner’s allegation “that he was not provided sufficient notice or an
2 opportunity to be heard—as required by law—prior to his re-detention” and ordered
3 Respondents to “show cause . . . why Petitioner should not be released from custody
4 on that basis.” ECF 6. Respondents did not oppose the petition and deferred to the
5 Court on the appropriate relief. ECF 7 at 3. Several hours later, the Court issued its
6 Order granting Mr. Bonilla’s habeas petition and ordering an individualized bond
7 hearing under 8 U.S.C. 1226(a) within fourteen days. ECF 8.

8 ARGUMENT

9 I. Mr. Bonilla’s Detention Violates Procedural Due Process

10 As outlined in his habeas petition, Mr. Bonilla’s current detention violates
11 procedural Due Process under the three-factor analysis set forth in *Mathews v.*
12 *Eldridge*, 424 U.S. at 319 (1976). ECF 1 at 8-13, 16-18.¹ Indeed, numerous courts in
13 the district have found procedural Due Process violations in cases like this one that
14 involve re-detentions of individuals previously released from DHS custody, where
15 the government did not show a material change in circumstances with respect to
16 danger or flight risk justified the re-detention. *See, Fanfan v. Noem*, No. 3:25-cv-
17 03291-DMS-BJW, 2025 WL 3563739 (S.D. Cal. Dec. 12, 2025) (granting TRO
18 ordering release of petitioners re-detained at ICE check-ins, finding re-detentions
19 likely violated procedural Due Process); *see also, e.g., Sunil v. Casey*, No. 26-cv-
20 1653-LL-DDL, 2026 WL 1021407 (S.D. Cal. Apr. 15, 2025); *Tulyakov v. LaRose*,
21 No. 3:26-cv-01695-BTM-BLM, 2026 WL 981218 (S.D. Cal. Apr. 13, 2026); *Vicky*
22 *v. Casey*, No. 25-CV-949 JLS (JLB), 2026 WL 608589 (S.D. Cal. Mar. 4, 2026).

23 *First*, Mr. Bonilla has a protectable interest in his liberty from government
24 custody. In cases materially indistinguishable from this one, courts in the district
25 have consistently found that “‘if DHS has released a noncitizen pending civil
26

27 ¹ For the reasons set forth in his habeas petition, Mr. Bonilla’s detention also
28 violates substantive Due Process and the Administrative Procedure Act. ECF 1 at 18-19.

removal proceedings, the noncitizen has a protected liberty interest in remaining out of immigration custody.” *Fanfan*, 2025 WL 3563739, at *3 (quoting *Pablo Sequen v. Albarran*, 806 F. Supp. 3d 1069, 1082 (N.D. Cal. 2025)); *see also e.g., Vicky*, 2026 WL 608589, at *2 (holding petitioner previously released on recognizance “has a protected liberty interest in remaining out of custody”); *Faizyan v. Casey*, No. 25-cv-02884-RBM-JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025) (same).

Second, because Mr. Bonilla was previously released from custody, there is a high risk of erroneous deprivation. This is because the “[r]elease reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018); *see also* 8 C.F.R. 1236.1(c)(8) (outlining requirements for release on recognizance). Thus, “to be lawful” the re-detention “must be based on evidence that the circumstances relevant to that original release decision have changed.” *Saravia*, 280 F. Supp. 3d at 1196. “To satisfy due process, those changed circumstances must represent individualized legal justification for detention.” *Sanchez v. LaRose*, No. 25-CV-2396-JED-MMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (internal citations omitted). Yet Mr. Bonilla received no process *prior* to his re-detention to assess whether such evidence existed. Mr. Bonilla’s case demonstrates the unacceptably high risk of erroneous deprivation in this context, as he was re-detained despite the fact that he meticulously complied with the requirements of his 2023 release from DHS custody and has no criminal history. Bonilla Decl. ¶¶7, 25.

Finally, with respect to the third *Mathews* factor, the government can claim no interest in re-detention where—as here—there are no changed circumstances going to flight risk or danger.² *See Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1036 (N.D. Cal.

² On information and belief, Mr. Bonilla received an adverse decision in his asylum case yesterday (April 16). He has reserved his right to appeal that decision and has 30 days to do so. *See* 8 C.F.R. 1003.38(b). Mr. Bonilla is thus not subject to a final order of removal; instead, he remains in ongoing removal proceedings.

(Footnote continues on next page.)

2025) (“The government does not claim that any material circumstances have changed that would warrant reassessment of Pinchi’s risk of flight or dangerousness, and it has articulated no other reason for her detention.”); *Fanfan*, 2025 WL 3563739, at *3 (“When the Government has previously decided to release a noncitizen and there is no evidence in the record of any changed circumstance that might have caused the Government to reconsider its initial decision to release the noncitizen ... the Government’s interest in re-detention is low.”) (citing *Doe v. Chestnut*, No. 1:25-cv-01372 CDB (HC), 2025 WL 3295154, at *10 (E.D. Cal. Nov. 26, 2025)). Thus, the third and final prong of the *Mathews* test similarly weighs in Mr. Bonilla’s favor. Mr. Bonilla’s re-detention therefore violates procedural Due Process.

II. Release Is the Proper Remedy for the Constitutional Violation Here

A. Release is the proper remedy to return Mr. Bonilla to the status quo ante.

Because the constitutional Due Process violation at issue in this case gave rise to Mr. Bonilla’s re-detention, release is the only proper remedy.³ That is because

Moreover, there can be no question that at the time of his re-detention, no changed circumstances existed. Indeed, numerous courts in this district have continued to order release on procedural Due Process grounds in similar circumstances. See *Machado v. Dir. of Otay Mesa Det. Ctr.*, No. 25-cv-3277-JES-JLB, 2026 WL 125618, *6 (S.D. Cal. Jan. 16, 2026) (ordering release for petitioner with non-final removal order and noting that “when Respondents arrested petitioner on October 17, 2025, they did so in the absence of any changed circumstances that could justify their conduct”); *Faizyan v. Casey*, No. 3:25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025) (ordering release of petitioner who was re-detained at ICE check-in whose BIA appeal remained pending); *Lesic v. LaRose*, No. 25-cv-2746-LL-BJW, 2025 WL 3158675 (S.D. Cal. Nov. 12, 2025) (ordering release of two petitioners who were re-detained at ICE check-ins after prior releases on IJ bond and while BIA appeals of removal and voluntary departure orders remained pending); *Hu v. LaRose*, No. 3:26-cv-00946-RBM-SBC, 2026 WL 517974 (S.D. Cal. Feb. 25, 2026) (ordering release of petitioner who was re-detained and then subsequently ordered removed, but whose timely appeal remained pending with the BIA).

³ Notably, Respondents did not argue against release or in favor of a bond hearing in this matter. Instead, as noted above, their Response “defers to the Court on the appropriate relief.” ECF 7 at 3.

1 release is required to return Mr. Bonilla to the status quo ante, which is “the last
2 uncontested status which preceded the pending controversy.” *See Pinchi v. Noem*,
3 No. 25-CV-05632-RMI (RFL), 2025 WL 1853763, at *3 (N.D. Cal. July 4, 2025)
4 (ordering immediate release of noncitizen unlawfully re-detained without a pre-
5 deprivation hearing) (internal citations omitted). While an individualized bond
6 hearing may have constituted sufficient process *prior* to his re-detention in August
7 2025, that process cannot cure the unlawful detention to which he is now subject.
8 *See E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025)
9 (“Although the Government notes that Petitioner may request a bond hearing while
10 detained, such a post-deprivation hearing cannot serve as an adequate procedural
11 safeguard because it is after the fact and cannot prevent an erroneous deprivation of
12 liberty.”); *see also Domingo v. Kaiser*, No. 25-cv-05893-RFL, 2025 WL 1940179,
13 at *3 (N.D. Cal. July 14, 2025) (“Even if Petitioner-Plaintiff received a prompt post-
14 detention bond hearing under 8 U.S.C. 1226(a) and was released at that point, he
15 will have already suffered the harm that is the subject of his motion: that is, his
16 potentially erroneous detention.”)

17 For this reason, courts in this district have consistently ordered immediate
18 release in cases, like this one, where a petitioner was *re-detained* without any process
19 to determine whether a material change in circumstances justified their re-detention.
20 *See Fanfan*, 2025 WL 3563739, at *9 (ordering immediate release of petitioners
21 detained at ICE check-ins and enjoining re-detention absent pre-deprivation
22 hearing); *see also, e.g., Sunil*, 2026 WL 1021407; *Tulyakov*, 2026 WL 981218; *Chel*
23 *v. LaRose*, No. 26-cv-1114-LL-BLM, 2026 WL 926902 (S.D. Cal. Apr. 6, 2026);
24 *Shilu v. Warden*, No. 3:26-cv-01276-RBM-BJW, 2026 WL 926900 (S.D. Cal. Apr.
25 3, 2026); *Wang v. LaRose*, No. 3:26-cv-01130-BTM-BJW, 2026 WL 773085 (S.D.
26 Cal. Mar. 18, 2026); *Vicky*, 2026 WL 608589; *Aguilar-Perez v. LaRose*, No.

1 25CV3409-LL-DDL, 2026 WL 92045 (S.D. Cal. Jan. 13, 2026).⁴ Thus, Mr. Bonilla
2 respectfully maintains that the proper remedy here is immediate release and an order
3 prohibiting the government from re-detaining him absent a pre-deprivation hearing
4 at which it establishes a lawful justification for his re-detention.

5 Habeas petitions challenging unconstitutional re-detentions, like this one,
6 differ from those only challenging the statutory basis of a petitioner's detention. In
7 cases involving *only* statutory claims, the status quo ante (before the government's
8 interpretation of 8 U.S.C. 1225(b)(2) in *Matter of Yajure Hurtado*, 29 I. & N. Dec.
9 216 (BIA 2025)) is detention under 8 U.S.C. 1226(a) with the ability to seek bond
10 before an immigration judge.⁵ By contrast, cases challenging unconstitutional *re*-
11 detentions require release to return petitioner to the status quo ante. *Cf. Esqueda*
12 *Morales v. Warden*, No. 3:26-cv-01800-RBM-MMP, 2026 WL 936953, at *2 (S.D.
13 Cal. Apr. 7, 2026) (concluding petitioner was properly detained under 8 U.S.C.
14 1226(a) but “find[ing] that immediate release, rather than a bond hearing, is the
15 appropriate remedy” because of re-detention following prior release). Mr. Bonilla
16 therefore respectfully submits that release—rather than a bond hearing—is the
17 appropriate remedy to cure the constitutional violation at issue here.

18
19 ⁴ This Court has also ordered immediate release in cases that, from the docket
20 entries, appear to involve the government's failure to provide notice or an
21 opportunity to be heard prior to parole revocation and re-detention as required by
22 governing regulations. *See Botchorishvili v. DHS*, 3:26-cv-01829-TWR-SBC (S.D.
23 Cal. Apr. 1, 2026) (citing failure to comply with 8 C.F.R. 212.5(e)(2)(1) as basis for
ordering release); *Vargas Montiel v. Noem*, 3:26-cv-01347-TWR-VET (S.D. Cal.
Mar. 18, 2026) (same). This Court should join others in this district in ordering
release where, as here, the government has failed to provide constitutionally-
required notice or opportunity to be heard prior to re-detention.

24 ⁵ In its Minute Order granting Mr. Bonilla's Petition and ordering a bond
25 hearing, the Court referenced *Vasquez-Diaz v. LaRose*, No. 25-cv-3038. ECF 8.
26 From the publicly available Minute Order in that case, it appears the Order granted
27 relief on petitioner's statutory claim. *See Vasquez-Diaz v. LaRose*, No. 25-cv-3038,
28 ECF 6 (S.D. Cal. Nov. 13, 2025) (“The Court finds that 8 U.S.C. § 1226(a) applies
to Petitioner, and Petitioner is therefore entitled to an individualized bond hearing.”).
By contrast, Mr. Bonilla's procedural Due Process challenge to his re-detention does
not turn on the statutory authority under which the government purports to detain
him. ECF 1 at 14 n.2.

B. A bond hearing before the immigration court is an insufficient remedy.

Even in cases where a bond hearing is the proper remedy, there is growing evidence that immigration courts are not conducting such hearings in accordance with basic principles of fairness and due process. *See Singh v. Valdez*, No. 1:26-cv-01109, 2026 WL 890240, at *5 (D. Colo. Apr. 1, 2026) (finding “[b]ased on the observations of fellow judges across the country” that there is “mounting evidence” that erroneous immigration court bond denials are not “isolated incidents” and more likely “preordained outcomes” and ordering release).⁶

Federal courts across the country are increasingly reaching this conclusion and ordering alternate relief, including release. *See, e.g., Miri v. Bondi*, No. 5:26-cv-00698-MEMF-MAR, 2026 WL 622302, at *9 (C.D. Cal. Mar. 5, 2026) (ordering release based on finding that immigration court abused its discretion in denying bond where it failed to explain the reasons for the denial, or the factors or evidence considered); *Zheng v. Rokosky*, --F.Supp.3.--, 2026 WL 800203, at *6 (D.N.J. Mar. 23, 2026) (ordering immediate release after “IJ erroneously stated that she lacked jurisdiction in direct defiance of [the] Court’s Order, failed to provide any explanation whatsoever for her supposed alternative holding that Petitioner is a flight risk, and by all appearances acted as a ‘mere rubber-stamp’ . . . for Respondents’ predetermined decision to deny bond”); *Ulloa Bueno v. Soto*, No. 26-CV-896, 2026 WL 509102, at *2 (D.N.J. Feb. 24, 2026) (granting immediate release after immigration judges twice failed to conduct a neutral bond hearing as ordered with

⁶ *See also* Nicholas Nehamas et al., *How Trump Purged Immigration Judges to Speed Up Deportations*, N.Y. Times, Apr. 9, 2026, <https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html> (“One current judge said the ‘pressure to deny bond is overt.’”); Kyle Cheney, *Judges keep ordering immigration hearings – but say the results are a sham*, Politico, Mar. 6, 2026, <https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660>.

1 burden of proof placed on DHS).⁷

2 ***

3 Because Mr. Bonilla was previously released from DHS custody, and re-
4 detained without the government showing a material change in circumstances with
5 respect to danger or flight risk, he is detained in violation of procedural Due Process.
6 The proper remedy is to restore him to the status quo ante and order his release.

7 **CONCLUSION**

8 For the foregoing reasons, Mr. Bonilla respectfully requests that the Court
9 amend its April 16 order granting his habeas petition to require his immediate release
10 from custody subject to the conditions of his prior release and prohibit his re-
11 detention absent a pre-deprivation hearing at which the government must prove that
12 changed circumstances related to flight risk or danger warrant his detention.

13
14 Date: April 9, 2026

Respectfully Submitted,

15
16 /s/ Talia Inlender

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25 ⁷ Other courts are ordering that a bond hearing be conducted before the district
26 court—rather than the immigration court—recognizing that federal courts are “the
27 arbiters of constitutional rights.” *See L.G.M. v. LaRocco*, 788 F. Supp. 3d 401, 405
28 (E.D.N.Y. 2025) (holding that a noncitizen’s bond hearing should take place before
the District Court, rather than before an immigration judge, based on the
constitutional rights at issue). While Petitioner maintains that release is the
appropriate remedy here, *see* Part II *supra*, he would be open to that alternative
should the Court disagree.

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