UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF LOUISIANA

OSCAR HERNANDEZ AMAYA,

Petitioner,

v.

DONALD J. TRUMP, in his official capacity as President of the United States;

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;

PAMELA BONDI, in her official capacity as Attorney General of the United States;

TODD LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

SCOTT G. LADWIG, in his official capacity as Acting Field Office Director of the New Orleans Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations;

KEVIN JORDAN, in his official capacity as LaSalle Corrections Facility Administrator at Louisiana ICE Processing Center.

Respondents.

Civil Action No. 3:25-cv-889

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. The Louisiana State Penitentiary—colloquially referred to as "Angola"—is synonymous in textbooks, lore, movies, and reality with criminal punishment.[1] There is no way to disaggregate Angola from the notion of criminal punishment. They go hand in hand, and that is intentional.

2. In fact, just this past week, on September 29, 2025, the Governor of Louisiana posted from his official Twitter account a two-minute and fourteen-second video on this newly minted immigration detention camp.[2] That video made it clear that this new facility—dubbed "Louisiana Lockup"—has been set aside for the illegal purpose of prolonging immigrant detention.[3] *See* **Exhibit 1** (unofficial video transcript). Respondent Noem specifically noted in that very video that "there has never been an agreement [between a state and the Department of Homeland Security] like this one before." *Id.* In the video, Respondent Noem's voiceover also underscored that the current administration intends to "throw the book" (*i.e.*, "to punish (someone) as severely as possible")[4] at immigrants detained at this camp to ensure that they "no longer have the right to be free and no longer have the right to be in the United States of America."[5]

3. But detaining immigrants who cannot be deported within a presumptively reasonable six-month period is unconstitutional.[6]

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1 *See* Anne Butler Hamilton & C. Murray Henderson, *Angola: Louisiana State Penitentiary: A Half-Century of Rage and Reform* (Center for Louisiana Studies, Univ. of Southwestern Louisiana 1990); Liz Garbus, Wilbert Rideau & Jonathan Stack, dirs., *The Farm: Angola, USA* (Seventh Art Releasing 1998); Adam Mahoney, *Inside the Angola Prison Rodeo and America's Mass Incarceration Crisis*, Capital B News (May 6, 2025), https://capitalbnews.org/angola-prison-rodeo-contradictions/.

2 Gray Louisiana, *Landry Posts New Louisiana Lockup Video at Angola Prison*, KNOE News 8 (Sept. 29, 2025), https://www.knoe.com/2025/09/29/landry-posts-louisiana-lockup-video-angola-prison/.

3 *See id.; Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

4 *Throw the Book At*, Merriam-Webster.com Dictionary (def.), https://www.merriam-webster.com/dictionary/throw%20the%20book%20at; *See* Louisiana, *supra* note 2.

5 *Id.*

6 *Zadvydas*, 533 U.S. at 701.

4. Angola is the largest maximum-security prison in the United States and includes a Death Row.[7] Its sordid history includes the fact that it was a slave plantation named after the country of Angola, from where many enslaved people were brought in chains to the United States.[8] In fact, even after slavery had long been abolished, Angola was described as coming "probably as close to slavery as any person could come in 1930."[9]

5. Sadly, not much has changed since the early 20th century. Individuals incarcerated at Angola still describe it as "Hell on Earth."[10] This is unsurprising considering the ongoing use of a "farm line" at the prison—a practice in which those incarcerated on facility grounds are subjected to forced labor in dangerous conditions, under the supervision of armed corrections officials known as "gun guards."[11]

Aug. 18, 2011 photo, where prison guards ride horses next to those imprisoned at Angola as they return from farm work detail. (AP Photo/Gerald Herbert)

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7 Natalia Marques, *Black History Month: Centuries of Struggle at Louisiana State Penitentiary in the US*, Brasil De Fato (Feb. 24, 2025), https://www.brasildefato.com.br/2025/02/24/black-history-month-centuries-of-struggle-at-louisiana-state-penitentiary-in-the-us; Ken Daley & Gray News Staff, *Louisiana Death Row Inmate Dies Before Scheduled March Execution*, WWNY-TV (Feb. 23, 2025), https://www.wwnytv.com/2025/02/24/louisiana-death-row-inmate-dies-before-scheduled-march-execution.

8 *Id.*

9 *Id.*; *see also* Charles Wolfe & Kip Lornell, *The Life and Legend of Leadbelly* 100 (1992).

10 *See* Bernard Smith, *Hell on Earth*, Lens NOLA (July 29, 2025), https://thelensnola.org/2025/07/29/hell-on-earth.

11 *See* Kat Stromquist, *Angola 'farm line' hearings highlight controversies over prison labor, heat*, WWNO (April 25, 2025), https://www.wwno.org/law/2025-04-25/angola-farm-line-hearings-highlights-controversies-over-prison-labor-heat.

6. Incarceration at Angola has historically been regarded as a form of extraordinarily severe punishment. Due to its history as a plantation and its brutal conditions, Angola is regarded as the "Bloodiest Prison in America."[12]

7. In a 1971 statement, the American Bar Association described Angola as "medieval, squalid and horrifying."[13] Frighteningly, these tales of horror never abated in the more than half-a-century since they were made—leading this Court, in 2021, to find that Angola had, for decades, been "deliberately indifferent to [] inmates' serious medical needs in the means and manner of the delivery of health care," amounting to cruel and unusual punishment, in violation of the United States Constitution.[14] Two years later, in 2023, this Court ordered the removal of juveniles imprisoned on the grounds of Angola because of rampant abuses perpetrated against the young people incarcerated there.[15]

8. Against this backdrop, the case before this Court asks whether the "emergency"[16] refurbishing of a "notorious," "inhumane,"[17] "legendary," and shuttered incarceration unit at Angola—formerly known as Camp J and "the dungeon" (now dubbed "Camp 57" or the Louisiana ICE Processing Center ("LIPC"))—can suddenly start detaining immigrants indefinitely to punish

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12 Brooke Taylor, *New ICE detention facility "Louisiana Lockup" opens at notorious prison*, Fox News (Sept. 3, 2025), https://www.foxnews.com/politics/new-ice-detention-facility-louisiana-lockup-opens-notorious-prison.

13 *See* Linda Ashton, *Louisiana Inmates Blame Unrest on Governor: Roemer's Stinginess With Clemency Has Created 'Time Bomb,' Lifers Claim*, L.A. Times (Jul. 23, 1989), https://www.latimes.com/archives/la-xpm-1989-07-23-mn-234-story.html.

14 *See Lewis v. Cain*, No. 3:15-CV-318, 2021 WL 1219988, at *1 (M.D. La. March 31, 2021).

15 *See* James Finn, *Federal judge orders Louisiana Office of Juvenile Justice to remove youth from Angola unit*, Advocate (Sept. 8, 2023), https://www.theadvocate.com/baton_rouge/news/courts/louisiana-federal-judge-orders-youth-removed-from-angola/article_ade42ccd-9f59-5178-ab80-77807793bf36.html.

16 Greg Larose, *Portion of Louisiana State Penitentiary Set Aside for 'Worst of the Worst' ICE Arrests*, FOX 8 (Sept. 2, 2025), https://www.fox8live.com/2025/09/02/portion-louisiana-state-penitentiary-set-aside-worst-worst-ice-arrests/.

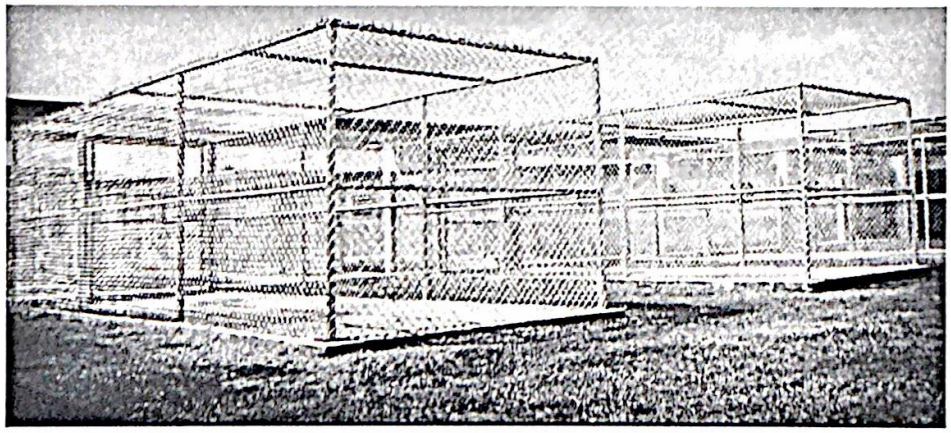
17 *Incarcerated Men Again Win Heat Protections for Forced Field Work*, Promise of Justice Initiative (May 24, 2025) (available at https://promiseofjustice.org/news/incarcerated-farm-line-workers-win-heat-protections-again).

them for past crimes for which they have already served their time.[18] *See* **Exhibit 2** (Executive Order Numbers JML 25-084 and 094, "State of Emergency Maximum Security Camp J Repairs Louisiana State Penitentiary").

9. It cannot.

10. Our Constitution says as much. Its Double Jeopardy Clause states: no person "shall . . . be subject for the same offence to be twice put in jeopardy of life or limb . . . ."[19]

11. Just as Louisiana is known for maintaining the highest incarceration rate in the world—a truth undoubtedly rooted in Louisiana's colonial and enslaving history—hosting Camp 57 at the former Camp J site is no coincidence. Today, community leaders still call the Camp a "modern day plantation."[20] Thus, embedded in the choice to host Camp 57 on the former grounds of Camp J is a proclaimed desire by Respondents to wrongly and inevitably intertwine notions of immigration and criminality.[21]



[18] *See* Nicholas Chrastil, *'The dungeon' at Louisiana's notorious prison reopens as Ice detention center*, Guardian (Sept. 18, 2025), https://www.theguardian.com/us-news/2025/sep/18/louisiana-angola-prison-trump-ice-immigration.

[19] U.S. Const. art. V ("Double Jeopardy Clause") (prohibiting multiple prosecutions or punishments for the same offense).

[20] *Take Action: Say No To Angola Expansion*, Action Network Petition (available at https://actionnetwork.org/petitions/stop-camp-j).

[21] Dave Walker, *Louisiana's grim history of mass incarceration explored in 'Captive State' at New Orleans museum*, Times-Picayune (Aug. 28, 2024), https://www.nola.com/entertainment_life/mass-incarceration-in-louisiana-explored-in-captive-state/article_638733ba-64f9-11ef-be2b-63e1c0a4436d.html.

Oct. 5, 2025 image of outdoor cages at Camp 57, from Governor Jeff Landry's promotional YouTube video entitled "The Louisiana Lockup: Home of the WORST of the WORST."

12. The country is quickly facing a constitutional crisis in this regard—specifically as it relates to immigrants who (a) have been granted Convention Against Torture ("CAT") protection or withholding of removal protection by our immigration courts; (b) have not been removed within the presumptively reasonable six-month period the United States Supreme Court identified in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001); and (c) have a criminal conviction on their record for which they have already served their full sentence.

13. The Supreme Court has been clear that anyone held beyond a six-month period after a final order of removal benefits from the presumption that release is appropriate.[22] Camp 57 flips that notion on its head, turning a presumption of release into a presumption of punitive incarceration. This flies in the face of binding precedent, holding that immigration detention can *only* serve strictly civil—not criminal—purposes.[23]

14. At bottom, immigrants with CAT protection cannot be detained for *de facto* life sentences in immigration jails simply because they committed a crime for which they already served their time. Nonetheless, at a press conference announcing the opening of Camp 57, Respondent Pam Bondi articulated a different position, stating: "[T]o be clear: If you commit a violent crime in this country. . . we are going to prosecute you here and we are going to keep you here [at Camp 57] for the rest of your life."[24] *See* **Exhibit 3** (unofficial press conference transcript). Invoking Angola as a harbinger of what is to come across the country, Respondent Bondi

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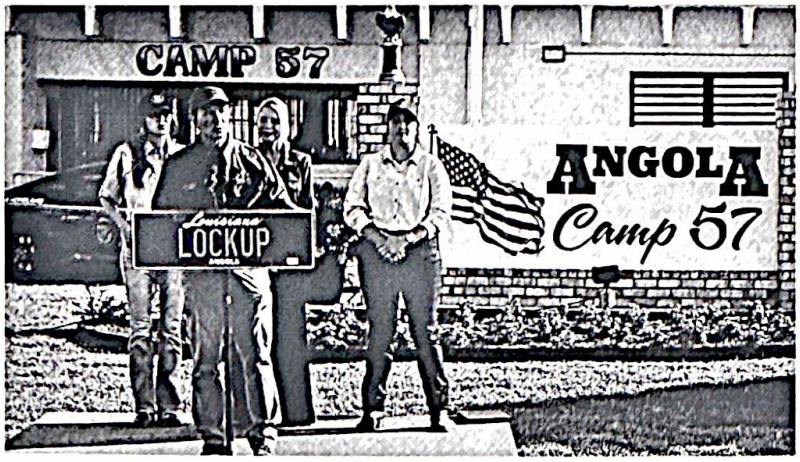
[22] *Zadvydas*, 533 U.S. at 701.

[23] *Id.*

[24] *Governor Landry and officials announce plan to hold federal immigration detainees at Angola*, WWLTV (video) (Sept. 3, 2025), https://www.youtube.com/watch?v=lC_Bcxe4YKA at 0:31:43.

emphasized: "Louisiana, you're going to be an example for the rest of this country."[25] The Governor of Louisiana echoed Respondent Bondi in his own words: "Criminal illegal aliens"—in other words, immigrants who have already served their time for offenses and thus should no longer carry the stigma of criminality—"beware: Louisiana Lockup is where your time in America ends."[26]



September 4, 2025 image in the Shreveport Times (online), "Louisiana Lockup replaces Alligator Alcatraz as Trump sends immigrants to notorious Angola"

15. These statements suggest that, for those immigrants who cannot be deported to any country outside of the United States, they will spend the rest of their lives imprisoned in immigration detention—absent any adversarial hearing that would allow them to challenge this unlawful end-run around the Double Jeopardy Clause.

16. Camp 57 is sadly just the tipping point for the current Administration's mass detention campaign and its support for a multibillion-dollar for-profit prison empire run by various private companies. LaSalle Corrections is one of those private companies, and was awarded the contract

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[25] *See* Hannah Rabinowitz & Devon M. Sayers, *Trump Administration to Open New ICE Facility at Notorious Louisiana Prison*, CNN (Nov. 16, 2021), https://www.cnn.com/2025/09/03/politics/new-ice-facility-angola-louisiana-prison.

[26] *See* U.S. Dep't of Homeland Sec., *Louisiana Lockup: New Partnership Between DHS and State of Louisiana to Expand Detention Space* (Sept. 3, 2025), https://www.dhs.gov/news/2025/09/03/louisiana-lockup-new-partnership-dhs-and-state-louisiana-expand-detention-space.

to run Camp 57. This is deeply concerning, considering the company recently came under attack for the unconstitutional sterilization of women imprisoned at one of their immigration detention centers.[27]

17. Petitioner Oscar Hernandez Amaya ("Oscar") brings this challenge because he appears to be a victim of the Administration's disregard for the Supreme Court's directives precluding immigrant detention from being used as a form of criminal punishment, or for *de facto* life sentences for those with previous criminal records.

18. To date, Respondents have sought to label virtually all noncitizens as "criminals" (be they students,[28] those with children and spouses who are American citizens,[29] or those that served time for crimes previously committed[30])—while also indiscriminately placing those same individuals behind bars, regardless of their criminal background.[31] But, until now, Respondents did not seek to imprison those individuals on the grounds of the largest maximum-security prison in the United States.

19. Opening Angola to immigrants who have already served their time for crimes previously committed is unprecedented and must be rectified, for "[i]t is during our most challenging and uncertain moments that our Nation's commitment to due process is most severely tested; and it is in those times that we must preserve our commitment at home to the principles for

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27 *ICE Whistleblower: Mexico Investigating U.S. Immigrant 'Sterilisations,'* BBC News (Sept. 15, 2020), https://www.bbc.com/news/world-latin-america-54265571.

28 Shimon Prokupecz & Rachel Clarke, *How the Trump Administration Labeled Students as Criminals With No Evidence*, CNN (Apr. 29, 2025), https://www.cnn.com/2025/04/29/politics/trump-administration-international-students-visas.

29 *See* Brian Mann, *'Homegrowns are next': Trump hopes to deport and jail U.S. citizens abroad*, NPR (Apr. 16, 2025), https://www.npr.org/2025/04/16/nx-s1-5366178/trump-deport-jail-u-s-citizens-homegrowns-el-salvador.

30 Ja'han Jones, *Louisiana's Angola prison is a 'legendary' choice for detaining immigrants, Kristi Noem says*, MSNBC (Sept. 5, 2025), https://www.msnbc.com/top-stories/latest/angola-prison-louisiana-kristi-noem-rcna229171.

31 *See* Laura Romero, Armando Garcia & Frank Esposito, *Trump Vowed to Deport the 'Worst of the Worst' — but New Data Shows a Shift to Also Arresting Non-Criminals*, ABC News (July 1, 2025), https://abcnews.go.com/US/trump-vowed-deport-worst-worst-new-data-shows/story?id=123287810.

which we fight abroad."[32]

20. No one is saying that Oscar, who has lived in the United States for 18 years, did not commit a crime. He was convicted of attempted aggravated assault, possession of a weapon (knife) for unlawful purpose, and unlawful possession of a weapon (knife) in 2018.[33] Subsequently, he was sentenced after trial to five years in prison.[34] He was thereafter released on good time credits within two years' time, at which point he was taken into Immigration and Customs Enforcement ("ICE") custody, but released due to a medical condition[35] with an ankle monitor. On September 4, 2023, he was taken back into custody and has been fighting his removal case from detention, including applying for and successfully earning CAT protection from deportation back to Honduras, from which he fled in 2005.[36]

21. It has now been more than six months since Oscar was granted CAT.[37] The United States has been unable, in that time, to remove Oscar to a third country. Its attempts to deport him to Mexico have failed. Nonetheless, and despite the Supreme Court's clear directive in *Zadvydas*, Oscar appears to remain indefinitely behind bars.

22. The "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action."[38] That core freedom requires courts to "not minimize the importance and fundamental nature" of individual liberty.[39]

23. Oscar's liberty is of extraordinary importance to this country: if he stays behind bars indefinitely, the Constitution becomes nothing more than a house of cards.

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32 *Hamdi v. Rumsfeld*, 542 U.S. 507, 532 (2004).
33 *See* **Exhibit 5,** Decl. Susan Roy at ¶ 6.
34 *Id.*
35 *Id.*
36 *See* **Ex. 5**, Decl. Susan Roy at ¶¶ 1-8.
37 *Id.* at ¶ 15.
38 *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).
39 *United States v. Salerno*, 481 U.S. 739, 750 (1987).

24. Without this Court's intervention, Oscar will have no avenue to challenge his physical (and unlawfully criminal) detention by Respondents.

JURISDICTION AND VENUE

25. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus authority); 28 U.S.C. § 1331 (federal question jurisdiction); and U.S. Const. art. I, § 9, cl. 2 (Suspension Clause).

26. For the avoidance of any doubt concerning this Court's jurisdiction, through this petition, Oscar seeks only to challenge Respondents' ability to detain him pursuant to the due process protections embedded in the United States Constitution.[40]

27. Venue properly lies with this Court under 28 U.S.C. §1391(e) because Oscar is physically present and in the custody of Respondents at LIPC, a component of the Louisiana State Penitentiary, located in Angola, Louisiana, within the jurisdiction of the Middle District of Louisiana.[41]

28. Venue is proper within the Middle District of Louisiana because a substantial part of the events giving rise to the claims in this action took place in this District. Oscar is detained by Respondents at LIPC, which is located in Angola, Louisiana, within this Court's jurisdiction.

PARTIES

29. Petitioner Oscar Hernandez Amaya is a 34-year-old Honduran man who is being unlawfully detained by Respondents. He has been residing within the United States since his arrival in 2005. He is currently detained at LIPC and has recently been consecutively detained in ICE custody for two years—since September 4, 2023. He won CAT relief on March 28, 2025.

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[40] *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 118 (2020); *see also Boumediene v. Bush*, 553 U.S. 723, 771 (2008).

[41] *See* 28 U.S.C. § 2241(d).

30. Respondent Donald J. Trump is named in his official capacity as President of the United States. In this role, he is ultimately responsible for the policies and actions of the Executive Branch—including those of the Department of Homeland Security ("DHS"), under which ICE operates. As such, he is a legal custodian of Petitioner.

31. Respondent Kristi Noem is the Secretary of DHS. As DHS Secretary, Respondent Noem is responsible for the administration of immigration laws and policies pursuant to 8 U.S.C. § 1103. She supervises DHS's components including ICE and, as such, she is a legal custodian of Petitioner. She is sued in her official capacity.

32. Respondent Pamela Bondi is the Attorney General of the United States. As Attorney General, Respondent Bondi is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Petitioner's removal proceedings, including the standards used in those proceedings, and as such, she is Oscar's legal custodian. She is sued in her official capacity.

33. Respondent Todd Lyons is the acting ICE Director and Senior Official Performing the Duties of the Director. In that capacity, he is Oscar's legal custodian. He is sued in his official capacity.

34. Respondent Scott G. Ladwig is ICE's Acting Field Office Director for the New Orleans Field Office of ICE Enforcement and Removal Operations. As Field Office Director, Respondent Ladwig oversees ICE's enforcement and removal operations in the New Orleans District, which includes Louisiana. Petitioner is currently detained within this area of responsibility and, as such, Respondent Ladwig is a legal custodian of Oscar. He is sued in his official capacity.

35. Respondent Kevin Jordan is employed by LaSalle Corrections as the facility administrator for LIPC, where Oscar is detained. Mr. Jordan has immediate physical custody of

Oscar. Respondent Jordan is sued in his official capacity.

EXHAUSTION OF REMEDIES

36. No statutory exhaustion requirement applies to a petition challenging immigration detention under 28 U.S.C. § 2241.[42]

37. Oscar's claims—that his detention is unconstitutional because it contravenes the protections of the Constitution—are unrelated to any legitimate governmental purpose and therefore are not subject to any statutory requirement of administrative exhaustion, and thus, exhaustion is not a jurisdictional prerequisite.[43]

STATEMENT OF FACTS AND PROCEDURAL HISTORY

The History of Immigrant Detention in the United States Has Rapidly Grown into a Multi-Billion Dollar Empire.

38. Immigration detention—the practice of jailing noncitizens while they are in removal proceedings—originated in the United States in 1882, pursuant to Congress's desire to create a federal immigration inspection system.[44]

39. The physical detention of immigrants started ten years later, in 1892, with the opening of the Ellis Island Immigration Station—the first-ever dedicated immigration detention facility in the world.[45]

40. The following year, Congress passed the Immigration Act of 1893. The law required

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[42] *See, e.g., Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017) ("Unlike 28 U.S.C. § 2254, Section 2241's text does not require exhaustion."); *Robinson v. Wade*, 686 F.2d 298, 303 n.8 (5th Cir. 1982) ("[S]ection 2241 contains no statutory requirement of exhaustion like that found in section 2254(b) . . . .").

[43] *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *Id.* at 147 (holding that exhaustion is not appropriate where petitioner "may suffer irreparable harm if unable to secure immediate judicial consideration of [her] claim").

[44] Livia Luan, *Profiting from enforcement: The role of private prisons in U.S. immigration detention*, Migration Policy Institute (May 2, 2018), https://www.migrationpolicy.org/article/profiting-enforcement-role-private-prisons-us-immigration-detention.

[45] Freedom for Immigrants, *A Short History of Immigration Detention*, Freedom for Immigrants, https://www.freedomforimmigrants.org/detention-timeline (last visited Oct. 2, 2025).

the detention of any person not authorized for admission to the United States, though officials would release some immigrants on bond.[46]

41. Detention was challenging to those who had journeyed to the United States. A social worker who visited immigrants detained at Ellis Island wrote: "They tell us that we help lighten the burden of detention with our daily visits . . . Above all this . . . they want our friendliness. . . No one can speak the twenty-five odd languages in which aliens speak who pass through Ellis Island, but by dividing the social services on a language basis, almost all the people who need it get the friendly attention they crave."[47]

42. But there was big difference between detention in the early to mid 1900s and now. Back then, it was very brief: "During the peak years of immigration, detentions on Ellis Island ran as high as 20% for all immigrants inspected. A detainee's stay could last days or even weeks."[48]

43. By the mid 1950s, Congress modified the immigration laws. In 1952, it passed the Immigration and Nationality Act ("INA"). The law allowed authorities to use discretion to grant noncitizens release from detention on bond based on community ties and pending a final determination of removability.[49] At the time, crimes of moral turpitude, for which one's status in the United States could be revoked, included violent crimes.[50]

44. Ellis Island closed in 1954, shortly after the INA went into effect.[51]

45. Thereafter, the United States moved away from a single, centralized immigration detention center. Instead, the government relied on parole, bond, and orders of supervision.

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46 *Id.*

47 Photograph of Ludmila K. Foxlee Plaque, *in* Ellis Island Museum (Aug. 26, 2025) (on file with Petitioner's counsel).

48 Photograph of "Temporarily Detained" Panel, *in* Ellis Island Museum (Aug. 26, 2025) (on file with Petitioner's counsel).

49 *See* 8 U.S.C. § 1226(a); *see also* Freedom for Immigrants, *supra* note 44.

50 *See* Freedom for Immigrants, *supra* note 44.

51 *Id.*

Although some processing of immigrants still occurred at individual ports of entry and border locations, mass detention did not significantly re-emerge until the 1980s.

46. The rise of private immigration prison companies started in the 1980s, after the Reagan administration instituted policies like the Mass Immigration Emergency Plan.[52] The Plan involved birthing a system of specialized immigration detention centers and contracts with state and local jails, and further included a standing requirement of 10,000 available immigration beds.[53]

47. In 1983, the world's first private prison company formed. It was called Corrections Corporation of America ("CCA"); it later changed its name in 2016 to CoreCivic.[54] In 1983, CCA entered into its first federal government contract to operate an immigration detention facility in Texas. Immigrants were first detained at a hotel owned by CCA, while the Houston Contract Detention Facility was being built.[55]

48. The following year, GEO Group, formerly the Wackenhut Corporation, formed. They secured their first detention contract in 1987.[56]

49. In 1996, Congress passed The Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") and the Antiterrorism and Effective Death Penalty Act ("AEDPA"), often grouped as the "1996 Laws."[57] Together, they greatly expanded the U.S. immigration detention system—in particular, the list of crimes considered "crimes of moral turpitude," which now included non-violent drug and other charges, for which both legal

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52 *See* Kristina Karin Shull, *"Nobody Wants These People": Reagan's Immigration Crisis and America's First Private Prisons* (2014) (Ph.D. dissertation, University of California, Irvine) (available at https://escholarship.org/uc/item/4v54x9hp).

53 *Id.*

54 *Id.*; *see also* Stephen McFarland, Chris McGowan & Tom O'Toole, *Prisons, Privatization, and Public Values* 2 (2002) (Report, Cornell University) (available at https://labs.aap.cornell.edu/sites/aap-labs/files/2022-10/McFarland%20et.al_2002.pdf).

55 Philip Mattera & Mafruza Khan et al., *Jail Breaks: Economic Development Subsidies Given to Private Prisons*, Good Jobs First: A Project of the Institute on Taxation and Economic Policy (Oct. 2001), https://www.goodjobsfirst.org/wp-content/uploads/docs/pdf/jailbreaks.pdf.

56 *See* Freedom for Immigrants, *supra* note 44.

57 *Id.*

immigrants and undocumented noncitizens could be subjected to mandatory detention and, subsequently, deportation.[58]

50. Following the attacks of September 11, 2001, the immigrant detention center at Guantanamo Bay transformed into a military prison.[59] Throughout the 70s, 80s, and 90s, it had been used to primarily detain Cubans and Haitians seeking refuge in the United States.[60]

51. Shortly after September 11, the Supreme Court limited the United States' authority to detain immigrants indefinitely if they did not have a country to receive them after they were ordered deported.[61]

52. In 2003, the Court upheld the Executive's authority to detain immigrants for a brief period during the pendency of their deportation proceedings.[62]

53. Over the course of the next decade, detentions and for-profit prison contracts surged. By the end of the Obama administration, in 2017, detention numbers reached a record high of over 40,000 people detained per day.[63]

54. In August of 2016, when the federal government announced they would phase out the use of private prisons, the stock prices of GEO Group and CoreCivic plummeted.[64] They surged three months later when Respondent Trump was elected President of the United States.[65]

55. In January of 2017, Respondent Trump signed an executive order promising to fortify

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58 *Id.*

59 *Id.*

60 *See* Jeffrey S. Kahn, *Guantánamo's Other History*, Boston Rev. (Oct. 15, 2021), https://www.bostonreview.net/articles/guantanamos-other-history/.

61 *Zadvydas*, 533 U.S. at 678.

62 *Demore v. Kim*, 538 U.S. 510 (2003) (holding that the INA does not deprive federal courts of jurisdiction to grant habeas relief to noncitizens who are permissibly held for "the brief period necessary for their proceedings").

63 *See* Freedom for Immigrants, *supra* note 44.

64 Evelyn Cheng, *Prison stocks plunge after report Justice Department will end use of private prisons*, CNBC (Aug. 18, 2016), https://www.cnbc.com/2016/08/18/prison-stocks-plunge-after-report-justice-department-will-end-use-of-private-prisons.html.

65 Jeff Sommer, *Trump's Win Gives Stocks in Private Prison Companies a Reprieve*, N.Y. Times (Dec. 6, 2016), https://www.nytimes.com/2016/12/03/your-money/trumps-win-gives-stocks-in-private-prison-companies-a-reprieve.html?smid=url-share.

and expand the U.S. immigration detention system.[66]

56. The following year, Louisiana became a massive detention and deportation hub.[67] The Alexandria Staging Facility, which came to the fore in 2014, began to play an even more central role in massive deportation efforts. In 2018, the number of detention centers in Louisiana grew to nine.[68]

57. By the end of Joseph R. Biden's term as President, immigration detention had expanded to nearly 60,000 people detained per day.[69] In 2020, GEO Group reported gross revenue of $2.35 billion dollars and a gross profit of $578.1 million.[70] CoreCivic reported gross revenue of $1.91 billion dollars that year and a gross profit of $512.5 million.[71] By 2024, GEO Group's gross profits had jumped to $649.22 million,[72] while CoreCivic's gross profits had dropped to $468.3 million.[73]

58. With the passage of the One Big Beautiful Bill in 2025, there is now more money than ever for detention—$45 billion more, in fact.[74] The increase in gross profits for GEO Group and

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66 *See id.*

67 Brent McDonald, Campbell Robertson, Zach Levitt & Albert Sun, Videos by Singeli Agnew & Ben Laffin, *How Louisiana Built Trump's Busiest Deportation Hub*, N.Y. Times (July 31, 2025), https://www.nytimes.com/interactive/2025/07/31/us/ice-deportation-hub-alexandria-louisiana.html.

68 Judith Greene, *Confronting Immigration Enforcement under Trump: A Reign of Terror for Immigrant Communities*, 45 Soc. Just. 83, 132 (2018).

69 Chris Cameron and Hamed Aleaziz, *Over 60,000 Are in Immigration Detention, a Modern High, Records Show*, N.Y. Times (Aug. 11, 2025), https://www.nytimes.com/2025/08/11/us/politics/immigration-detention-numbers.html.

70 *The GEO Group Reports Fourth Quarter and Full-Year 2020 Results and Issues 2021 Guidance*, GEO Group (Feb. 16, 2021), https://investors.geogroup.com/news-releases/news-release-details/geo-group-reports-fourth-quarter-and-full-year-2020-results-and.

71 *CoreCivic Reports Fourth Quarter and Full Year 2020 Financial Results*, CoreCivic (Feb. 10, 2021), https://ir.corecivic.com/news-releases/news-release-details/corecivic-reports-fourth-quarter-and-full-year-2020-financial.

72 *The GEO Group Reports Fourth Quarter and Full Year 2024 Results*, GEO Group (Feb. 27, 2025), https://investors.geogroup.com/news-releases/news-release-details/geo-group-reports-fourth-quarter-and-full-year-2024-results.

73 *CoreCivic Reports Fourth Quarter and Full Year 2024 Financial Results*, CoreCivic (Feb. 10, 2025), https://ir.corecivic.com/news-releases/news-release-details/corecivic-reports-fourth-quarter-and-full-year-2024-financial.

74 Katherine Culliton-Gonzalez and Lama Elsharif, *Trump's budget bill benefits private immigration detention companies that donated to Trump*, Center for Responsibility and Ethics in Washington (Jul. 23, 2025), https://www.citizensforethics.org/reports-investigations/crew-investigations/trumps-budget-bill-benefits-private-immigration-detention-companies-that-donated-to-trump.

CoreCivic are projected to likewise surge by billions of dollars.

59. Camp 57, run by LaSalle Corrections ("LaSalle"), opened at Angola on September 3, 2025. Because LaSalle is a privately held, for-profit, family-run business, it does not disclose its financial information. That said, pursuant to the Cooperative Endeavor Agreement, the State of Louisiana has agreed to pay LaSalle a maximum fee of $50,308,064.00 for the current two (2) year Camp 57 contract. *See* **Exhibit 4** (Cooperative Endeavor Agreement) at Article VI Secs 1-4 (6.1-6.4, p. 6). This is separate from the additional reimbursements LaSalle will receive for the medical and transportation contracts the company executes. *Id.* And the agreement says nothing about how LaSalle stands to benefit from the dollar-a-day ($1/day) compensation it pays individuals detained to maintain the facility and its operations.[75]

60. On September 7, 2025, Oscar was transferred from the Moshannon Valley Processing Center in Philipsburg, Pennsylvania, to Camp 57.

On January 20, 2025, the United States Initiated One of the Strongest Anti-Immigrant Campaigns in Its History By Focusing on Labelling Immigrants of all Stripes as "Criminals."

61. The current administration came to power promising mass deportations, the flip side of mass detention. As promised, starting on January 20, 2025, one of the most aggressive anti-immigrant campaigns in U.S. history began, including an on-going attempt to end birthright citizenship—which stands to turn citizens into noncitizens, greatly expanding who may be subject to the exact type of indefinite detention Oscar faces.[76]

62. On January 29, 2025, the Laken Riley Act was signed into law. The Act requires DHS

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[75] *See* Am. Civ. Liberties Union, *Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration* 8 (2020).

[76] *See* American Immigration Council, *Mass Deportation: Analyzing the Trump Administration's Attacks on Immigrants, Democracy, and America* (July 4, 2025), https://www.americanimmigrationcouncil.org/report/mass-deportation-trump-democracy; Josh Gerstein, *Trump Asks Supreme Court to Let Him End Birthright Citizenship*, Politico (Sept. 26, 2025), https://www.politico.com/news/2025/09/26/supreme-court-birthright-citizenship-trump-admin-00583378.

to detain immigrants who have been arrested for burglary, theft, larceny, or shoplifting.[77]

63. Aggressive policies aimed at arresting immigrants have, to date, included, but are not limited to: raids at immigration courts[78] and businesses frequented by immigrants;[79] the targeting of Spanish-speaking people;[80] the targeting of Iranians after the United States bombed Iran;[81] the imposition of National Guard troops in so-called sanctuary cities, such as Los Angeles and Memphis;[82] the declaration that all immigrants residing in the United States regardless of entry date will now be subject to mandatory detention and thus bond ineligible;[83] the revocation of Orders of Supervision for individuals who had lived in the country for decades;[84] the arrest of immigrants at their ICE appointments; [85] and the indefinite detention of individuals granted withholding of removal or CAT protection, like Oscar.[86]

64. In Louisiana, Act 158 was signed into law on June 8, 2025, changing state law to expedite the transfer of immigrants convicted for non-violent and non-sex offense-related crimes

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77 Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

78 Ximena Bustillo, *Immigration Courts Work with ICE to Boost Arrests*, NPR (June 12, 2025), https://www.npr.org/2025/06/12/nx-s1-5409403/trump-immigration-courts-arrests.

79 *See* Marianne LeVine, Lauren Kaori Gurley & Aaron Schaffer, *ICE Is Arresting Migrants in Worksite Raids. Employers Are Largely Escaping Charges*, Wash. Post (June 30, 2025), https://www.washingtonpost.com/immigration/2025/06/30/ice-raids-arrests-workers-companies.

80 *See* Grace Berry & Rachel Clarke, *U.S. Citizens Carry Passports Amid Rising Fears of ICE Encounters*, Cronkite News (Sept. 24, 2025), https://cronkitenews.azpbs.org/2025/09/24/citizens-carry-passports-amid-rising-fears-ice-encounters.

81 Amir Vahdat, *U.S. Will Begin Deporting Iranians From America to Iran*, AP News (Sept. 3, 2025), https://apnews.com/article/iran-us-detainees-return-13fe92791f443524fa6f146c8ee279dd.

82 *See* Associated Press, *Trump Orders National Guard Deployment to Memphis, Chicago, and Portland*, CNN (Sept. 29, 2025), https://www.cnn.com/2025/09/29/us/trump-national-guard-memphis-chicago-portland.

83 *See* Maria Sacchetti & Carol D. Leonnig, *ICE Declares Millions of Undocumented Immigrants Ineligible for Bond Hearings*, Wash. Post (July 14, 2025), https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/.

84 *See* Rob Masson, *New Orleans family says ICE detained Iranian-born woman who's lived in US for 47 years*, KNOE News (Jun. 25, 2025), https://www.knoe.com/2025/06/25/new-orleans-family-says-ice-detained-iranian-born-woman-whos-lived-us-47-years.

85 *See* Nidia Cavazos, *Immigrants at ICE Check-Ins Detained and Held in Basement of Federal Building in Los Angeles, some overnight*, CBS News (Sept. 3, 2025), https://www.cbsnews.com/news/immigrants-at-ice-check-ins-detained-and-held-in-basement-of-federal-building-in-los-angeles/.

86 *See* Austin Rose, *Continued Detention of Noncitizens Who Win Immigration Relief: How to Stop ICE's Arbitrary Practice*, Amica Center for Immigrant Rights (July 2024), https://amicacenter.org/app/uploads/2024/07/Continued-Detention-Brief-Amica-Version.pdf.

from state criminal custody to civil immigration custody.[87]

65. On July 4, 2025, the One Big Beautiful Bill Act was signed into law. The Act makes ICE the most well-funded agency in the country, increasing its budget of $8 billion to $28 billion.[88] Passage of the Act has provided for detention facilities at military installations,[89] allocating tens of billions in funding for single adult detention capacity and family residential center capacity.[90]

66. Since that Act's passage, detention facilities have been erected at Fort Bliss, Texas,[91] in the Everglades National Park (popularized by the administration as "Alligator Alcatraz"),[92] and in state correctional facilities, such as Miami Correctional Center in Indiana (popularized by the administration as "Speedway Slammer"),[93] and at Louisiana's Angola Prison (popularized by the administration as "Louisiana Lockup").[94] Additional immigration detention centers are planned to open and operate nationwide.[95]

67. On September 3, 2025, the Governor of Louisiana, Respondents Noem and Bondi, and

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87 Act No. 158, House Bill No. 208, Louisiana 2025 Regular Session (2025), https://legis.la.gov/legis/ViewDocument.aspx?d=1425077.

88 *See* Douglas MacMillan, N. Kirkpatrick & Lydia Sidhom, *ICE Documents Reveal Plan to Double Immigrant Detention Space This Year*, Wash. Post (Aug. 15, 2025), https://www.washingtonpost.com/immigration/2025/08/15/ice-documents-reveal-plan-double-immigrant-detention-space-this-year.

89 Sec. 20011, "Improving Department of Defense Border Support and Counterdrug Missions," Title II, Armed Services Section By Section, House Armed Services Committee, https://armedservices.house.gov/uploadedfiles/hasc_reconcilitation_-_section_by_section.pdf; *see also* Sec. 20011, One Big Beautiful Bill Act, Pub. L. No. 199-21 (2025).

90 *See* Sec. 90003, One Big Beautiful Bill Act, Pub. L. No. 199-21 (2025).

91 Douglas MacMillan et al., *60 Violations in 50 Days: Inside ICE's Giant Tent Facility at Ft. Bliss*, Wash. Post (Sept. 16, 2025), https://www.washingtonpost.com/business/2025/09/16/ice-detention-center-immigration-violations.

92 Camilo Montoya-Galvez, *Florida to Receive Federal Funds to Build Immigration Detention Sites, Including 'Alligator Alcatraz,' Noem Says*, CBS News (June 24, 2025), https://www.cbsnews.com/news/alligator-alcatraz-florida-immigration-detention-centers-dhs-secretary-noem.

93 *The Speedway Slammer: A New Partnership with DHS and the State of Indiana to Expand Detention Space*," Department of Homeland Security (Aug. 5, 2025), https://www.dhs.gov/news/2025/08/05/speedway-slammer-new-partnership-dhs-and-state-indiana-expand-detention-space.

94 *See* Rick Rojas, *ICE Opens Immigration Detention Center in Notorious Louisiana Prison*, N.Y Times (Sept. 3, 2025), https://www.nytimes.com/2025/09/03/us/ice-detention-center-angola-louisiana.html.

95 Wash. Post, *supra* note 88.

ICE Deputy Director, Madison Sheahan, held a press conference at Camp 57.[96] Remarks from that press conference suggest that LIPC has the capacity to hold around 400 people; it currently holds around 200.[97]

68. A press release accompanied the opening of Camp 57. It was entitled "DHS Releases Names of Murderers, Pedophiles, Rapists, and Child Predators in Louisiana Lockup."[98]

DHS Releases Names of Murders, Pedophiles, Rapists, and Child Predators in Louisiana Lockup

Release Date: September 5, 2025

WASHINGTON – Today, the Department of Homeland Security (DHS) released the names and criminal history of 51 of the worst of the worst criminal illegal aliens detained at Louisiana Lockup, also known as the Louisiana State Penitentiary or Angola Prison. This partnership with the state of Louisiana allows ICE to expand detention space by up to 416 beds. Below is more information about the heinous criminal illegal aliens currently being held at Louisiana Lockup:

- **26 criminal illegal aliens convicted of murder**
- **8 criminal illegal aliens convicted of rape**
- **8 criminal illegal aliens convicted of sexual exploitation of a minor**
- **9 criminal illegal aliens convicted of sexual assault of a minor**

"Murderers, pedophiles, rapists, and child predators. These are the barbaric criminal illegal aliens arrested by ICE and being held at Louisiana Lockup," **said a DHS Spokesperson.** *"If you are in America illegally, you could find yourself in CECOT, Cornhusker Clink, Speedway Slammer, or Louisiana Lockup. Criminal illegal aliens are not welcome in the U.S."*

Names and rap sheets of the 51 barbaric criminals at Louisiana Lockup are below:

Needless to say, this characterization is misleading and bears no resemblance to Oscar.

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96 Alex Cox, *A notorious wing of Angola prison is now a detention center for ICE*, WWNO (Sept. 4, 2025), https://www.wwno.org/immigration/2025-09-04/a-notorious-wing-of-angola-prison-is-now-a-detention-center-for-ice; WWLTV, *supra* note 24.

97 Meghan Friedman, *Gov. Jeff Landry, Trump officials unveil 'Louisiana Lockup,' an ICE detention center at Angola*, Nola.com (Sept. 3, 2025), https://www.nola.com/news/jeff-landry-trump-officials-unveil-new-ice-center-at-angola/article_a017650c-ea80-4800-96dc-c715539c9902.html.

98 U.S. Dep't of Homeland Sec., *DHS Releases Names of Murders, Pedophiles, Rapists, and Child Predators in Louisiana Lockup*, (Sept. 5, 2025), https://www.dhs.gov/news/2025/09/05/dhs-releases-names-murders-pedophiles-rapists-and-child-predators-louisiana-0.

69. Despite the reality that people like Oscar are detained at Camp 57, the drumbeat around Camp 57 is one that confusingly and misleadingly claims that the immigrants there are "criminals"—"the worst of the worst criminal illegal aliens"[99]—who need to be stopped from "perpetuating horrific activities."[100]

70. And yet the individuals at Camp 57, just like Oscar, have already served time for their crimes. *See* **Exhibit 5** ("S. Roy Decl.") at ¶ 6; *compare* Ellis M. Johnston, *Once A Criminal, Always A Criminal? Unconstitutional Presumptions for Mandatory Detention of Criminal Aliens*, 89 Geo. L.J. 2593, 2615 (2001) (discussing how noncitizens who have criminal histories still "have a fundamental liberty interest to be free from physical restraint when there has been no individualized determination that they, if released, would pose a flight or safety risk to the public"); *United States v. Mare*, 668 F.3d 35, 39 (1st Cir.) (explaining that a core principle of our legal tradition is mitigating undue prejudice whereby a court "might think worse of the defendant's character out of some 'rel[iance] on the aphorism 'once a criminal, always a criminal'" (alteration in original); *Michelson v. United States*, 335 U.S. 469, 475 (1948) (describing that courts "almost unanimously have come to disallow resort by the prosecution to any kind of evidence of a defendant's evil character" in order to prevent "confusion of issues, unfair surprise and undue prejudice").

71. At Camp 57's opening, Respondent Bondi said its purpose was "to secure our borders, remove dangerous illegal aliens, stop drug and human smuggling, and lock up these criminals as long as we can in our prisons . . . where they will be prosecuted by our great U.S. attorneys here in Louisiana."[101] But Oscar now has protection under CAT and there is no further prosecution of

[99] WWLTV at 0:03:48-0:04:40, *supra* note 24.
[100] *Id.* at 0:07:58-0:08:27.
[101] *Id.* at 0:15:00-0:15:21

his removal case—let alone his criminal case (which definitively ended years ago). S. Roy Decl. ¶ 15. Oscar was *already* civilly prosecuted by the Administration, but he prevailed in his case on March 28, 2025. *Id.* Despite this reality, Respondent Bondi proclaimed that Oscar would remain at Angola for the rest of his life.[102]

72. Against this backdrop, ICE Deputy Director Sheahan's statement that, "we worked with the Louisiana State Police and the Louisiana National Guard to move 51 of the worst of the worst alien criminals that we have arrested throughout the country into the facility"[103] appears disingenuous at best. Respondent Noem's statement that "[t]his specific facility is going to host the most dangerous, criminal illegal aliens in the country"[104] falls into the same category.

73. Respondent Noem emphasized that Camp 57 is intended to hold "the worst of the worst criminal illegal aliens" throughout the press conference. She further emphasized, "We're committed to making America safe again. And that means arresting [as] many criminal, illegal aliens as possible and then making sure we're getting them off of our streets. We're bringing them to justice and we're making our communities safer."[105]

74. The "worst of the worst" and "criminal illegal aliens" language utilized by administration officials throughout the press conference is intentional. Since January 1, 2025, DHS published at least 192 press releases using the specific term "criminal illegal aliens."[106] The White House has used this phrase in 78 additional releases available on its website.[107]

75. These press releases often describe arrests of the "worst of the worst criminal illegal

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[102] *See supra* at ¶ 12.
[103] WWLTV at 0:19:11-0:19:34, *supra* note 24.
[104] *Id.* at 0:33:00-0:33:22.
[105] *Id.* at 0:11:21-0:11:36.
[106] Query for press releases including "criminal illegal alien," U.S. Dep't of Homeland Sec. (2025), https://www.dhs. gov/news-releases/press-releases?combine=criminal%20illegal%20aliens&created=2025& field_taxonomy _topics_target_id=All&items_per_page=50&page=3.
[107] Query for publications including "criminal illegal alien," White House (2025), https://www.whitehouse. gov/?s=criminal+illegal+aliens.

aliens" for "prior convictions for violent crimes."[108] Clearly, there is no attempt whatsoever to hide the Administration's end run around the Double Jeopardy Clause.

The Reality and Lore of Angola—the Nation's Largest, Maximum-Security Prison—Renders it Wholly Incompatible with the Notion of "Civil" Non-Punitive Detention.

76. The creation of Camp 57 at Angola was the culmination of the current Administration's mass detention campaign and its support for a multi-billion-dollar for-profit prison empire.

77. As the largest maximum-security prison in the United States, Angola is the Administration's new crown jewel.

78. The prison has historically been described as "probably as close to slavery as any person could come" after the U.S. Civil War.[109]

79. It has a long-standing reputation as a place that is "medieval, squalid and horrifying."[110]

80. Camp 57, formerly Camp J, was commonly referred to as "the dungeon" because of its brutal reputation of abuse and violence, and the fact that it kept individuals in solitary confinement for years.[111] Camp J's notoriety—newly rebranded as Camp 57—led to its closure in 2018.[112]

81. The inhumane conditions at Camp 57 have allegedly already forced detained individuals to go on a hunger strike for lack of basic necessities, such as medical care, toilet paper,

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[108] Query for press releases including "worst of the worst," U.S. Dep't of Homeland Sec. (2025), https://www.dhs.gov/news-releases/press-releases?combine=worst+of+the+worst&created=2025&field_taxonomy_topics_target_id= All&items_per_page=50.

[109] Rowan Moore, *Albert Woodfox: 'I choose to use my anger as a means for changing things,'* The Guardian (Oct. 23, 2016), https://www.theguardian.com/news/2016/oct/23/albert-woodfox-interview-released-angola-three-louisiana-state-penitentiary.

[110] Linda Ashton, *Louisiana Inmates Blame Unrest on Governor: Roemer's Stinginess With Clemency Has Created 'Time Bomb,' Lifers Claim*, L.A. Times (Jul. 23, 1989), https://www.latimes.com/archives/la-xpm-1989-07-23-mn-234-story.html.

[111] Nicholas Chrastil, *'The dungeon' at Louisiana's notorious prison reopens as Ice detention center*, Guardian (Sept. 18, 2025), https://www.theguardian.com/us-news/2025/sep/18/louisiana-angola-prison-trump-ice-immigration.

[112] Grace Toohey, *Angola closes its notorious Camp J, 'a microcosm of a lot of things that are* wrong,' Advocate (May 13, 2018), https://www.theadvocate.com/baton_rouge/news/crime_police/angola-closes-its-notorious-camp-j-a-microcosm-of-a-lot-of-things-that-are/article_b39f1e82-4d84-11e8-bbc2-1ff70a3227e7.html.

hygiene products, and clean drinking water.[113]

82. Despite the issuance of a press release by the Louisiana State Department of Corrections (which ostensibly has no direct oversight or management of Camp 57), denouncing the hunger strike as a sham,[114] the allegations are not surprising—considering that state corrections officials had, for decades, been "deliberately indifferent to [] inmates' serious medical needs in the means and manner of the delivery of health care, in violation of the Eighth Amendment to the United States Constitution."[115]

83. In 2023, the Middle District of Louisiana ordered the removal of young people who were being held at Angola due to corrections officials' "intolerable" use of solitary confinement, handcuffs, mace, and failing to provide educational and mental health programming as required by law.[116]

84. Moreover, Angola continues to be subject to ongoing litigation concerning the existence of the "farm line," a practice in which individuals detained at the prison are subjected to forced labor in dangerous conditions, under the supervision of armed corrections officials known as "gun guards."[117]

85. Recently, individuals incarcerated at Angola described it as "Hell on Earth."[118]

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[113] Coral Murphy Marcos, *Ice detainees hold hunger strike at Louisiana state penitentiary*, Guardian (Sept. 21, 2025), https://www.theguardian.com/us-news/2025/sep/21/ice-detainee-hunger-strike-louisiana.

[114] Official Statement From The Louisiana Department of Public Safety & Corrections Regarding Louisiana Lockup, Louisiana Department of Public Safety and Corrections (Sept. 22, 2025), https://doc.la.gov/wp-content/uploads/2025/09/Departmental-Statement-Regarding-Louisiana-Lockup-092225.pdf.

[115] *Lewis v. Cain*, No. 3:15-CV-318, 2021 WL 1219988, at *1 (M.D. La. March 31, 2021).

[116] James Finn, *Federal judge orders Louisiana Office of Juvenile Justice to remove youth from Angola unit*, Advocate (Sept. 8, 2023), https://www.theadvocate.com/baton_rouge/news/courts/louisiana-federal-judge-orders-youth-removed-from-angola/article_ade42ccd-9f59-5178-ab80-77807793bf36.html.

[117] Kat Stromquist, *Angola 'farm line' hearings highlight controversies over prison labor, heat*, WWNO (April 25, 2025), https://www.wwno.org/law/2025-04-25/angola-farm-line-hearings-highlights-controversies-over-prison-labor-heat.

[118] *See* Bernard Smith, *Hell on Earth*, Lens NOLA (July 29, 2025), https://thelensnola.org/2025/07/29/hell-on-earth; *see also* Rebecca Merton & Christina Fialho, Letter to U.S. Immigration and Customs Enforcement and Dep't of Homeland Sec. Re: Sexual Abuse, Assault, and Harassment in U.S. Immigration Detention Facilities

Oscar Sits Indefinitely Detained at Angola for a Crime for which He Already Served the Time.

86. Oscar now sits indefinitely trapped at Angola despite the CAT protection awarded to him by an Immigration Judge ("IJ") on March 28, 2025—a ruling from which DHS waived its right to appeal, placing Oscar in prolonged detention as of September 28, 2025.

87. Oscar's history is simple. He grew up in tough circumstances, which thrust him into gang life in Honduras. S. Roy Decl. ¶¶ 2-5. But when the dictates of the gang required him to torture and kill another human being, he could not do it. *Id.* Instead, he chose to flee Honduras and seek refuge in the United States, escaping from the gang whose bidding he refused to do. *Id.*

88. He entered the United States in 2005, where he worked without incident until 2016.

89. During that year, he was accused of assault with a weapon. Charges were brought against him and a jury convicted him.

90. He was sentenced to four-and-one-half (4.5) years in prison and was released from criminal custody within two years for good behavior.

91. He was promptly taken into ICE custody on October 8, 2020. The following year, on January 21, 2021, he was released on an ankle bracelet because of a medical condition. *See* **Exhibit 6** (Oscar's Personal Statement).

92. On September 4, 2023, he was taken back into ICE custody as he fought for CAT protection. He was detained at the Moshannon Valley Processing Center in Pennsylvania. *See* S. Roy Decl. ¶ 16.

93. He was granted CAT protection on March 28, 2025, and the government waived its

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(April 11, 2017) (available at http://www.endisolation.org/wp-content/uploads/2017/05/CIVIC_SexualAssault_Complaint.pdf.) (detailing how rape and sexual assault are often underreported in immigration detention due to fears of retaliation, social isolation, language barriers, and knowledge that allegations are not seriously investigated).

right to appeal, rendering his removal order final on that date.

94. In June 2025, ICE issued a decision to continue Oscar's detention pursuant to its 90-day, Post-Order Custody Review ("POCR") process. *See* **Exhibit 7** (Decision to Continue Detention ("90-day POCR Dec.")). In issuing its decision, ICE denied release. *Id.* at 1. The decision states that "ICE is in receipt of or expects to receive the necessary travel documents to effectuate your removal, and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest." *Id.*

95. Respondents thereafter attempted to remove Oscar to Mexico, but failed.

96. Upon information and belief, as of the date of this filing, ICE has failed to secure travel documents to remove Oscar to any alternate or third country.

97. On September 8, 2025, Oscar was transferred to LIPC, where he remains detained today.

98. His medical issues, which plagued him and led to his release in 2021, persist and have only gotten worse during his time in DHS custody.

Oscar's Detention Does Not Comport with Law or Policy.

99. Oscar is currently detained pursuant to 8 U.S.C. § 1231, which governs the detention of noncitizens with a final order of removal, including when that final order of removal has been withheld or deferred by an IJ due to a substantial risk of persecution or torture in their country of origin. 8 U.S.C. § 1231(a)(1)(B)(i). Oscar's removal order and accompanying relief grant became final when DHS waived its right to appeal his CAT grant. 8 C.F.R. § 1241.1.

100. To be granted CAT relief, a noncitizen must show that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2). An applicant for CAT relief must show a higher likelihood of torture than the

likelihood of persecution an asylum applicant must demonstrate. *See id.*

101. When an IJ grants a noncitizen withholding or CAT relief, the IJ issues a removal order and simultaneously withholds or defers that order with respect to the country or countries for which the noncitizen demonstrated a sufficient risk of persecution or torture. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 531–32 (2021).

102. An IJ may only terminate a grant of CAT protection based on evidence that the person will no longer face torture. DHS must move for a new hearing and provide evidence "relevant to the possibility that the [noncitizen] would be tortured in the country to which removal has been deferred and that was not presented at the previous hearing." 8 C.F.R. §§ 208.17(d)(1), 1208.17(d)(1). If a new hearing is granted, the IJ must provide notice "of the time, place, and date of the termination hearing," and must inform the noncitizen of the right to "supplement the information in his or her initial [withholding or CAT] application" "within 10 calendar days of service of such notice (or 13 calendar days if service of such notice was by mail)." 8 C.F.R. §§ 208.17(d)(2), 1208.17(d)(2).

The Restrictions Placed on 8 U.S.C. § 1231 Detention in Zadvyas v. Davis

103. 8 U.S.C. § 1231 governs the detention of noncitizens "during" and "beyond" the "removal period." 8 U.S.C. §§ 1231(a)(2)-(6). The "removal period" begins once a noncitizen's removal order "becomes administratively final." 8 U.S.C. § 1231(a)(1)(B). The removal period lasts for 90 days, during which ICE "shall remove the [noncitizen] from the United States" and "shall detain the [noncitizen]" as it carries out the removal. 8 U.S.C. §§ 1231(a)(1)-(2). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen "*may* be detained beyond the removal period" if they meet certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added).

104. To avoid "indefinite detention" that would raise "serious constitutional concerns," the Supreme Court in *Zadvydas* construed § 1231 to contain an implicit time limit. 533 U.S. at 682. *Zadvydas* dealt with two noncitizens who could not be removed to their home country or country of citizenship due to bureaucratic and diplomatic barriers. The Court held that § 1231 authorizes detention only for "a period reasonably necessary to bring about the [noncitizen]'s removal from the United States." *Id.* at 689. Six months of post-removal order detention is considered "presumptively reasonable." *Id.* at 701.

105. The Court underscored that civil detention is only constitutionally permissible in "special and narrow nonpunitive circumstances, where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (citations omitted) (internal quotations omitted). The Court thus concluded that, "[a] statute permitting indefinite detention of [a noncitizen] would raise a serious constitutional problem." *Id.*; *see id.* at 701 ("We do have reason to believe, however, that Congress previously doubted the constitutionality of detention for more than six months.").[119]

106. DHS regulations provide that, by the end of the 90-day removal period that ensues upon a noncitizen's removal order becoming final, the local ICE field office with jurisdiction over the noncitizen's detention must conduct a custody review to determine whether the noncitizen should remain detained. *See* 8 C.F.R. §§ 241.4(c)(1), (k)(1)(i) ("Prior to the expiration of the removal period, the district director . . . shall conduct a custody review . . . "). The Field Office Director, or their delegate, makes the final custody decision based on recommendations offered by lower-level officers. In making this custody determination, ICE considers several factors, including the availability of travel documents for removal. *Id.* §§ 241.4(e)-(f). If there is a decision

[119] Mr. Zadvydas' case was consolidated with that of Kim Ho Ma, another resident noncitizen who had previously been convicted of manslaughter after a gang-related shooting.

to release, ICE must release the noncitizen under conditions of supervision it considers appropriate. *Id.* § 241.4(j).

107. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established "special review procedures" to determine whether detained noncitizens with final removal orders are likely to be removed in the reasonably foreseeable future. *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4's custody review process remained largely intact, subsection (i)(7) was added to include a supplemental review procedure that ICE HQ must initiate when "the [noncitizen] submits, or the record contains, information providing a substantial reason to believe that removal of a detained [noncitizen] is not significantly likely in the reasonably foreseeable future." *Id.* § 241.4(i)(7).

108. Under this procedure, ICE HQ evaluates the foreseeability of removal by analyzing factors such as the history of ICE's removal efforts to third countries. *See id.* § 241.13(f). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on "special circumstances," it must justify the detention based on narrow grounds, such as national security or public health concerns, *id.* §§ 241.14(b)-(d), or by demonstrating by clear and convincing evidence before an IJ that the noncitizen is "specially dangerous." *Id.* § 241.14(f).

109. The Supreme Court has held that post-removal order detention is limited to "a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas*, 533 U.S. at 689. This is because the primary purpose of post-order detention is to "assure[e] the [noncitizen's] presence at the moment of removal." *Id.* at 699. This government interest in "preventing flight," however, "is weak or nonexistent where removal seems a remote possibility at best." *Id.* at 690.

110. Therefore, in habeas proceedings, if a person "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the government must either "respond with evidence sufficient to rebut that showing" or release them from detention under supervision. *Id.* at 701; *see also Barco v. Witte*, No. 6:20-cv-00497, 2020 WL 7393924, at *3 (W.D. La. Nov. 19, 2020) (citing *Hassoun v. Session*, No. 18-CV-586-FPG, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) (report and recommendation adopted by *Barco v. Witte*, No. 6:20-cv-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020))); *see also Balza v. Barr*, No. 6:20-cv-00866, 2020 WL 6143643, at *5 (W.D. La. Sep. 17, 2020) (report and recommendation adopted by *Balza v. Barr*, No. 6:20-cv-00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020)).

111. The government's "good faith efforts" to remove an individual are not sufficient to meet this standard. *Zadvydas*, 533 U.S. at 702. As the length of detention grows, the period of time that would be considered the "reasonably foreseeable future" conversely shrinks. *Id.* at 701. "Petitioner's removal need not necessarily be imminent, but it cannot be speculative." *Balza*, 2020 WL 7223258, at *4 (quoting *Hassoun*, 2019 WL 78984, at *6). Once the burden shifts to the government, an "unsubstantiated belief" that "ICE can request a travel document and effectuate [a petitioner's] removal from the United States to that country" is insufficient to meet that burden. *McKenzie v. Gillis*, No. 5:19-cv-139-KS-MTP, 2020 WL 5536510, at *2-3 (S.D. Miss. July 30, 2020), (report and recommendation adopted as modified by *McKenzie v. Gillis*, No. 5:19-cv-139-KS-MTP, 2020 WL 5535367 (S.D. Miss. Sep. 15, 2020)).

112. If a court finds removal is reasonably foreseeable, the court may still order release, and may consider the risk posed by the individual to community safety in determining whether to do so. *Zadvydas*, 533 U.S. at 700. While dangerousness may justify immigrant detention in certain cases, the Court "uph[o]ld[s] preventive detention based on dangerousness only when limited to

specially dangerous individuals and subject to strong procedural protections." *Id.* at 690–91.

ICE's Fear-Based Grant Release Policy

113. ICE's longstanding policy (hereinafter the "Fear-Based Grant Release Policy") is to release noncitizens immediately following a grant of withholding of removal or CAT protection absent exceptional circumstances. *See* **Exhibit 8**, Fear-Based Grant Release Policy. "In general, it is ICE policy to favor the release of [noncitizens] who have been granted protection by an immigration judge, absent exceptional concerns . . ." and "[p]ursuant to longstanding policy, absent exceptional circumstances . . . noncitizens granted asylum, withholding of removal, or CAT protection by an immigration judge *should* be released . . . ." *Id.* (emphasis added). This policy specifically instructs the local ICE field office to make an individualized determination whether to keep a noncitizen detained based on exceptional circumstances. *Id.* ("[T]he Field Office Director must approve any decision to keep a [noncitizen] who received a grant of protection in custody.").

114. In 2000, the then-Immigration and Naturalization Service ("INS") General Counsel issued a memorandum clarifying that 8 U.S.C. § 1231 authorizes but does not require the detention of noncitizens granted withholding of removal or CAT relief. *Id.* A 2004 ICE memorandum turned this acknowledgement of authority into a presumption, stating that "it is ICE policy to favor the release of [noncitizens] who have been granted protection relief by an immigration judge, absent exceptional concerns such as national security issues or danger to the community and absent any requirement under law to detain." *Id.* Further, this memorandum states that "in all cases, the Field Office Director must approve a decision to keep a [noncitizen] granted protection relief in custody pending appeal." *Id.*

115. ICE leadership subsequently reiterated this policy in a 2012 announcement, clarifying that the 2000 and 2004 ICE memorandums are "still in effect and should be followed" and that

"[t]his policy applies at all times following a grant of protection, including during any appellate proceedings and throughout the removal period." *Id.*

116. Finally, in 2021, Acting ICE Director Tae Johnson circulated a memorandum to all ICE employees reminding them of the "longstanding policy" that "absent exceptional circumstances . . . [noncitizens] granted asylum, withholding of removal, or CAT protection by an immigration judge should be released . . . ." *Id.* (emphasis added). Director Johnson clarified that "in considering whether exceptional circumstances exist, *prior convictions alone do not necessarily indicate a public safety threat of danger to the community*. Rather, the individual facts and circumstances of the case, including extensiveness, seriousness, and recency of the criminal activity, along with any evidence of rehabilitation, should be considered in making such determination." *Id.*

117. In *Rodriguez Guerra v. Perry*, No. 1:23-cv-1151 (E.D. Va. Oct. 10, 2024), a group of noncitizens detained by ICE in the Eastern District of Virginia filed suit in 2023 on behalf of themselves and a class claiming systemic violation of the same policies by the Washington, D.C., Field Office, which has jurisdiction over detention centers in Virginia. The suit alleged the Washington, D.C., Field Office was engaging in a widespread violation of the *Accardi* doctrine by ignoring the policies at issue here. *Id.* at ECF No. 87. That case settled in 2024. *Id.* Although ICE did not admit liability, the Washington, D.C., Field Office agreed to review all detained noncitizens in their custody who had been granted relief for release pursuant to the policies described above.[120]

[120] The settlement goes on to offer this definitional language about "exceptional circumstances": "In considering whether exceptional circumstances exist, prior convictions alone do not necessarily indicate a public safety threat or danger to the community. Rather, the individual facts and circumstances of the case, including extensiveness, seriousness, and recency of the criminal activity, along with any evidence of rehabilitation, should be considered in making such determinations." Settlement Agreement at 6, *Rodriguez Guerra v. Perry*, No. 1:23-cv-1151 (E.D. Va. July 26, 2024), https://www.acluva.org/sites/default/files/field_documents/redacted_settlement_agreement_signed_v.1_final_07282024_redacted_002.pdf.

Third-Country Removal Procedures

118. When a noncitizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized to remove noncitizens who were granted withholding or CAT relief to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Noncitizens can be removed, for instance, to the country "of which the [noncitizen] is a citizen, subject, or national," the country "in which the [noncitizen] was born," or the country "in which the [noncitizen] resided" immediately before entering the United States. 8 U.S.C. §§ 1231(b)(2)(D)–(E).

119. Paragraphs (b)(1) and (b)(2) of § 1231 make any designation of the country of removal, whether by DHS or an IJ, "[s]ubject to paragraph (3)." *Id.* Paragraph (3), entitled "Restriction on removal to a country where [noncitizen's] life or freedom would be threatened," reads: "Notwithstanding paragraphs (1) and (2), the Attorney General may *not* remove [a noncitizen] to a country if the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that country because of the [noncitizen's] race, religion, nationality, membership in a particular social group, or political opinion." *Id.* § 1231(b)(3)(A) (emphasis added); *see also Jama v. ICE*, 543 U.S. 335, 348 (2005). Likewise, where DHS seeks to remove a noncitizen to a country where the noncitizen has a lesser connection (or no connection), regulations implementing CAT prohibit deportation to a country where the noncitizen will face torture. 8 C.F.R. §§ 208.16(c)–208.18, 1208.16(c)–1208.18.

120. If ICE identifies an appropriate alternative country for removal, the noncitizen must have notice and an opportunity to seek relief from removal to that country. *See Jama*, 543 U.S. at

348 ("If [noncitizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, *see* 8 CFR §§ 208.16(c)(4), 208.17(a) (2004) . . ."); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (finding that "last minute" designation of alternative country without meaningful opportunity to apply for protection "violate[s] a basic tenet of constitutional due process"); *Romero v. Evans,* 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) ("DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims."), *rev'd on other grounds, Guzman Chavez*, 594 U.S. 523 (2021); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting designation of third country where individuals received "ample notice and an opportunity to be heard").

121. The statute and regulations implement Congress's designation scheme in a way that ensures that noncitizens receive meaningful notice and an opportunity to present a fear-based claim. In removal proceeding under 8 U.S.C. § 1229(a) (commonly referred to as "Section 240" proceedings), individuals receive notice of all countries to which they may be deported. The regulations mandate that the IJ "shall notify" the individual of the designated country of removal and "shall identify for the record" all alternative countries to which the person may be removed. 8 C.F.R. § 1240.10(f).

122. When the government commences removal proceedings against a noncitizen under 8 U.S.C. § 1229(a), it typically designates a country of removal to which it is seeking to remove the noncitizen. The IJ then officially designates the country suggested by the government. Those who have been deported and subsequently return to the United States without inspection can have

their removal orders reinstated by DHS officers. *See* 8 U.S.C. § 1231(a)(5); 8 C.F.R. § 241.8. The reinstatement regulations contemplate notice of a designated country. *See* 8 C.F.R. § 241.8(e) (referring to "the country designated in [the reinstatement] order").

123. Likewise, DHS officers can issue an administrative removal order to nonpermanent residents with an aggravated felony conviction. *See* 8 U.S.C. § 1228(b); 8 C.F.R. § 238.1. In this process, the noncitizen may designate "the country to which he or she chooses to be deported" and the "deciding [DHS] officer shall designate the country of removal." 8 C.F.R. §§ 238.1(b)(2)(ii), (f)(2). Consistent with the United States' commitment to *non-refoulement*, the government must provide individuals who express a fear of return to the designated country with an opportunity to demonstrate a reasonable fear of persecution or torture in interviews before asylum officers, and those who do so, are eligible to apply for withholding of removal under 8 U.S.C. § 1231(b)(3) and/or CAT protection in what are known as withholding-only proceedings. *See* 8 C.F.R. §§ 241.8(e), 238.1(f)(3); *see also* 8 C.F.R. §§ 208.31, 1208.31.

124. If the government seeks to remove an individual granted withholding or CAT protection to a different country—*i.e.*, a country not designated by the removal order—the INA and due process principles require that the noncitizen have a meaningful opportunity to seek fear-based protection from removal to that country. Specifically, if ICE were to attempt to remove a noncitizen to a country not designated on their removal order, the noncitizen's removal proceedings would have to be reopened for the IJ to designate the alternative country of removal, and for the noncitizen to apply for any fear-based relief in withholding-only proceedings. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006–10 (W.D. Wash. 2019); *accord* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 1240.10(f),1240.11(c)(1)(i).

125. Notice is only meaningful if it is presented sufficiently in advance of the deportation to stop the deportation; is in a language the person understands; and provides for an automatic stay of removal for a time period sufficient to permit the filing of a motion to reopen removal proceedings—so that a third country for removal may be designated, as required under the regulations, and the noncitizen may present a fear-based claim. *Andriasian*, 180 F.3d at 1041; *Aden*, 409 F. Supp. 3d at 1009 ("A noncitizen must be given sufficient notice of a country of deportation [such] that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation.").

126. Further, an opportunity to present a fear-based claim is only meaningful if the noncitizen is not deported before removal proceedings are reopened. *See Aden*, 409 F. Supp. 3d at 1010 (holding that merely giving petitioner an opportunity to file a discretionary motion to reopen "is not an adequate substitute for the process that is due in these circumstances" and ordering reopening); *Dzyuba v. Mukasey*, 540 F.3d 955, 957 (9th Cir. 2008) (remanding to Board of Immigration Appeals to determine whether designation is appropriate).

127. Providing such notice and opportunity to present a fear-based claim prior to deportation also implements the United States' obligations under international law. *See* United Nations Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 150; United Nations Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267; Refugee Act of 1980, Pub. L. 96-212, § 203(e), 94 Stat. 102, 107 (codified as amended at 8 U.S.C. § 1231(b)(3)); *INS v. Stevic*, 467 U.S. 407, 421 (1984) (noting that the Refugee Act of 1980 "amended the language of [the predecessor statute to § 1231(b)(3)], basically conforming it to the language of Article 33 of the United Nations Protocol").

128. Meaningful notice and opportunity to present a fear-based claim prior to deportation to a country where a person fears persecution or torture are also fundamental due process protections under the Fifth Amendment. *See, e.g., Andriasian*, 180 F.3d at 1041. The federal government has repeatedly acknowledged these obligations in model notices of removal to other than designated countries. And, consistent with the above authorities and practices, at oral argument in *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021), the Assistant to the Solicitor General of the United States represented that the government must provide a noncitizen with notice and an opportunity to present fear-based claims, including claims for mandatory CAT protection, before that noncitizen can be deported to a non-designated third country. *See* Tr. of Oral Argument at 20-21, *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021); *see also* Tr. of Oral Argument at 33, *Riley v. Bondi*, 145 S. Ct. 2190 (2025) (No. 23-1270) ("We would have to give the person notice of the third country and give them the opportunity to raise a reasonable fear of torture or persecution in that third country.").

129. Oscar's continued detention violates 8 U.S.C. § 1231(a), as interpreted by the Supreme Court in *Zadvydas*, 533 U.S. 678, because his removal is not reasonably foreseeable. He cannot be deported to his country of citizenship because he has been granted deferral of removal with respect to his home country of Honduras, and ICE has exhausted efforts to remove him to alternative countries—having come up empty six months into their efforts.

130. In recent months, the government has stopped complying with its legal obligations and has deported other noncitizens to third countries without notice or opportunity to present their reasonable fear claims. In an attempt to bypass these protections, on March 30, 2025, the government issued an informal procedural policy memo that blatantly contravenes regulations,

statutes and due process principles governing third country removals.[121] A district court in Massachusetts issued a class-wide temporary restraining order ("TRO") and then a preliminary injunction to protect impacted noncitizens, like Oscar, facing summary removals to third countries where they have genuine fear-based CAT claims. *See D.V.D. v. DHS*, 778 F. Supp. 3d 355 (D. Mass. 2025) ("*D.V.D.*").

131. Even after the *D.V.D.* preliminary injunction was issued, the government defied the district court's orders and sought to summarily remove individuals to third countries such as to a maximum security prison in El Salvador, to Libya, and to South Sudan—without affording them their legally required opportunity to seek mandatory protection from those third countries with the assistance of counsel.

132. On July 9, 2025, Respondent Lyons issued guidance to all ICE employees implementing the March 30, 2025, memo. *See* **Exhibit 9**, Memo by Todd M. Lyons, Acting Director, to All ICE Employees, Re: Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025), dated July 9, 2025 ("Third Country Removal ICE Memo").

133. On June 23, 2025, the Supreme Court issued a summary order granting the government's application to stay the nationwide *D.V.D.* injunction. Therefore, at present, there is no longer a separate court order in place to help protect the rights of *D.V.D.* class members, like

[121] U.S. Dep't of Homeland Sec., *Guidance Regarding Third Country Removals* (Mar. 30, 2025), https://immigrationlitigation.org/wp-content/uploads/2025/04/43-1-Exh-A-Guidance.pdf; *see also* Maria Sacchetti, et al., *ICE memo outlines plan to deport migrants to countries where they are not citizens*, Wash. Post (July 13, 2025), https://www.washingtonpost.com/immigration/2025/07/12/immigrants-deportations-trump-ice-memo/ ("Federal immigration officers may deport immigrants to countries other than their own, with as little as six hours' notice, even if officials have not provided any assurances that the new arrivals will be safe from persecution or torture, a top official said in a memo.").

Oscar, to fully present their mandatory protection claims, with assistance of counsel, prior to removal to third countries.

ARGUMENT

Oscar's Detention Violates the Immigration and Nationality Act—Specifically, 8 U.S.C. § 1231(a)(6)—Supreme Court Precedent, and the Substantive Due Process Clause Because His Removal Is Not Reasonably Foreseeable.

134. The government is currently detaining Oscar pursuant to 8 U.S.C. § 1231(a)(6), which governs the detention of noncitizens who have an administratively final order of removal. Section 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the [noncitizen's] removal from the United States." 533 U.S. at 689.

135. Oscar's prolonged, indefinite detention under Section 1231(a)(6) violates his substantive due process rights under the Fifth Amendment, by depriving him of liberty without due process of law. U.S. Const. amend. V. In *Zadvydas*, the Supreme Court articulated that noncitizens detained post final removal order by the government for over six months must be released from custody if there is no significant likelihood that they will be removed in the reasonably foreseeable future. 553 U.S. at 699-700.

136. Civil detention is a severe encumbrance on the liberty guaranteed by the Due Process Clause. Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690; *see also Boumediene v. Bush*, 533 U.S. 723, 739 (2008) ("The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty"). Accordingly, due process permits civil detention only when it serves a "legitimate nonpunitive governmental objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997); *id.* at 358 ("A finding of dangerousness, standing alone, is ordinarily not a sufficient ground upon which to justify indefinite involuntary

commitment.")

137. At all times, detention must be reasonably related to a nonpunitive objective, and "where detention's goal is no longer practically attainable, detention no longer bears reasonable relation to the purpose for which the individual was committed." *Zadvydas*, 533 U.S. at 690 (internal citations and quotations omitted). At that point, otherwise permissible detention becomes "the exercise of power without any reasonable justification" and a violation of due process. *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998).

138. Continuing to detain Oscar under Section 1231(a)(6) while there is no significant likelihood of his removal in the reasonably foreseeable future violates the Fifth Amendment—because it deprives him of his "strong liberty interest." *United States v. Salerno*, 481 U.S. 739, 750 (1987). His continued detention further violates Section 1231(a)(6) because there is not a substantial likelihood that the government will be able to carry out his removal in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 701

139. At six months post final order of removal, the government now bears the burden to justify Oscar's continued detention because there are multiple "good reason[s] to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* First, Oscar cannot be deported to his only designated country of removal—Honduras—the only country of which he is a citizen, because he has a final CAT grant deferring his removal to Honduras. Second, he has no legal status or connections to any alternate country. The government's previous attempt to remove him to Mexico has failed. Third, should the government seek to remove Oscar to any third country, it must afford him mandatory protection from torture and persecution. As discussed above, binding regulations, statutes, and due process require the government to provide Oscar with an individualized and robust process, as set forth in the now stayed *D.V.D.* class injunction.

Therefore, not only would the government need to identify a country willing to accept Oscar, the government must then (a) provide Oscar with the opportunity to raise a fear-based claim seeking relief from removal to that country, and (b) if Oscar is successful in showing a reasonable fear, allow him an opportunity to reopen his proceedings. Together, these three factors make Oscar's removal significantly less foreseeable.

140. Accordingly, ordering Respondents to immediately release Oscar from their custody is appropriate because his "continued detention [has become] unreasonable and [is] no longer authorized by statute." *Id.* at 699–700; *Vaskanyan v. Janecka*, 2025 U.S. Dist. LEXIS 137846, at *16 (C.D. Cal. Jul 18, 2025) (granting a writ of habeas corpus where the countries designated for removal would not accept petitioner and "ICE d[id] not know whether and when the information requested by the [alternate third country] Consulate can be obtained or when it can expect to receive a response from the [alternate third country] consulate"). The government interest in "preventing flight [] is weak or nonexistent where removal seems a remote possibility at best." *Zadvydas*, 533 U.S. at 690.

141. The Supreme Court has long made clear that, where the government seeks to deprive an individual of a "particularly important individual interest[]," it must bear the burden of justifying this deprivation by clear and convincing evidence. *See, e.g.*, *Addington v. Texas*, 441 U.S. 418, 424 (1979). In cases like Oscar's, where he has been detained for more than six months post final order, there is a significant interest at stake and a "clear and convincing" evidence standard provides the appropriate level of procedural protection to ensure he is not being held unconstitutionally or indefinitely.

142. Even in cases involving individuals with criminal backgrounds, "[i]t is unthinkable that the Executive could render otherwise criminal grounds for detention noncriminal merely by

disclaiming an intent to prosecute, or by asserting that it was incapacitating dangerous offenders rather than punishing wrongdoing." *Hamdi v. Rumsfeld*, 542 U.S. 507, 556–57 (2004) (Scalia J. and Thomas J., dissenting) (relying on *Kansas* , 521 U.S. at 358). Without clear and compelling evidence of the danger that Oscar allegedly presents (which does not exist), there is no justification for his continued detention. *See, e.g.*, *Mohammed H. v. Trump*, No. CV 25-1576 (JWB/DTS), 2025 WL 1334847, at *7 (D. Minn. May 5, 2025).

143. To comport with substantive due process, civil immigration detention must bear a reasonable relationship to its two regulatory purposes—(1) to ensure the appearance of noncitizens at future hearings; and (2) to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-91. It cannot be used to punish; nor can it be used to detain those Congress never sought to detain pursuant to the INA. *Id.*; *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). And, to be clear, the *Zadvydas* Court mentioned that a special justification that outweighs the individual's liberty interest exists *only* when the individual is "specially dangerous," *Id.* at 690-91. The Court was clear that a criminal conviction alone is not sufficient to justify prolonged detention; indeed "some other special circumstance . . . [must] help[] to create the danger." *Id.*

144. The "specially dangerous" standard is conjunctive and can only be met if each of the following conditions are satisfied: (1) the immigrant has previously committed one or more crimes of violence as defined in 18 U.S.C. § 16; (2) the immigrant has a mental condition or personality disorder that makes future violent acts likely; and (3) "no conditions of release can reasonably be expected to ensure the safety of the public." 8 C.F.R. § 241.14(f)(1).

145. Regarding the first condition, crimes of violence include offenses that have elements of use, attempted use, or threatened use of physical force against another person or property as well as any felony offenses that involve substantial risk of physical force being used against others

or property. 18 U.S.C. § 16. While the existence of convictions for violent crimes is one factor in determining dangerousness, the designation can only be granted after receiving a report pursuant to the second condition, following a full examination conducted by Public Health Service medical experts. *Id.* That report must confirm that the individual's mental state and associated behaviors present a likely threat of future violent acts and that, as per the third condition, no reasonable conditions of release exist that could ensure public safety. *Id.* No such report has been rendered here.

146. As the Supreme Court has previously found, "[a] finding of dangerousness, standing alone, is ordinarily not a sufficient ground upon which to justify indefinite involuntary commitment." *See Kansas*, 521 U.S. at 358; *see also Zadvydas*, 533 U.S. at 685 (describing criminal history of noncitizen that included violence, who nevertheless was covered by constitutional prohibitions on indefinite detention).

147. But even in a case where the government has demonstrated special dangerousness, "detention [should] last no longer than reasonably necessary to effectuate removal." *See Ha Tran v. Mukasey*, 515 F.3d 478, 484 (5th Cir. 2008). Meaning, "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute"—regardless of any perceived dangerousness. *See Zadvydas*, 533 U.S. at 699.

148. In fact, the only means by which such a confinement would be permissible is if "a 'full-blown adversary hearing,' [were held] to convince a neutral decisionmaker by clear and convincing evidence that no conditions of release can reasonably assure the safety of the community or any person—*i.e.*, that the 'arrestee presents an identified and articulable threat to an individual or the community.'" *Foucha v. Louisiana*, 504 U.S. 71, 81 (1992). No such hearing has been held here, nor do there appear to be any plans to do so.

149. Because Oscar cannot be removed from the United States in the "reasonably foreseeable future," and he does not fall within the ambit of specially dangerous, his continued detention violates the Fifth Amendment, 8 U.S.C. § 1231(a)(6), and Supreme Court precedent. *Zadvydas*, 533 U.S. at 701.

Oscar's Detention Violates the Procedural Due Process Clause Because Respondents Are Not Complying with Both Law and Policy Governing Third Country Removal.

150. Oscar has the right to receive "notice . . . within a reasonable time and in such a manner as will allow [him] to actually seek . . . relief . . . before [] removal occurs." *Trump v. J.G.G.*, 604 U.S. —, 2025 WL 1024097, at *2 (Apr. 7, 2025) (per curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Absent this notice, he cannot raise a fear-based claim under the provisions that enshrine his rights to do so, placing his right to procedural due process—to which he is entitled—in jeopardy. *See, e.g.*, 8 U.S.C. § 1231(b); 8 U.S.C. 1225(b)(1)(A)(ii); 8 C.F.R. § 208.16; 8 C.F.R. § 208.31; *Reno*, 507 U.S. at 306.

151. Meaningful notice and opportunity to present a fear-based claim prior to deportation to a country where a person fears persecution or torture are fundamental due process protections under the Fifth Amendment. *See, e.g., Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999). The federal government has repeatedly acknowledged these obligations in model notices of removal to other than designated countries. And, consistent with the above authorities and practices, at oral argument in *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021), the Assistant to the Solicitor General represented that the government must provide a noncitizen with notice and an opportunity to present fear-based claims, including claims for mandatory CAT protection, before that noncitizen can be deported to a non-designated third country. *See* Tr. of Oral Argument at 20-21, *Johnson*, 594 U.S. 523; Tr. of Oral Argument at 33, *Riley*, 23-1270 (2025) ("We would have to give the person notice of the third country and give them the opportunity to raise a

reasonable fear of torture or persecution in that third country.").[122]

152. Respondents have not provided Oscar with a reasonable fear interview, as required by law, concerning any attempted removal to Mexico, despite his proclamation of fear to ICE about any such attempted removal. On information and belief, no such interview has been provided because Mexico has not agreed to accept Oscar in any event.

153. Moreover, Respondents' failure to put forth *additional* prospective countries of removal violates Oscar's right to notice and a meaningful opportunity to respond—where the third country removal process itself will further prolong his indefinite detention and limit the prospect of foreseeable removal. *See supra* ¶¶ 94-98.

154. Surely it is not the case that reasonable foreseeability is satisfied up until the point Respondents have asked the more than 190 countries in the world whether they will accept a particular individual who is not their own citizen. By this calculation, Respondents will only exhaust the possibilities of third-country removal after approximately 95 years have passed[123]—in short, upon someone's death.

155. Nor can it be the law that Respondents can deport Oscar wherever they choose absent any notice whatsoever. But Oscar has every reason to fear they will, because the government is currently removing noncitizens to third countries with as little as six hours' notice by the way of a single sheet of paper. *See supra* ¶¶ 130-133.

156. The due process clause requires meaningful notice or opportunity to challenge one's detention or meaningful process to contest detention. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). In assessing a procedural due process violation, courts weigh (1) the private interest

[122] Transcript of Oral Argument at 33, *Riley v. Bondi*, 145 S. Ct. 2190 (2025) (No. 23-1270), https://www.supremecourt.gov/oral_arguments/argument_transcripts/2024/23-1270_c0n2.pdf.

[123] Six-month removal period per country multiplied by approximately 190 countries = 1,140 months = 95 years.

affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

157. All three factors are satisfied here. As to the first, Oscar's private liberty interest in remaining free from government restraint is of the highest constitutional import. *See Kostak v. Trump et al.*, No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025). As to the second factor, Oscar's prolonged detention is erroneous under binding Supreme Court precedent, *see Zadvydas*, 533 U.S. at 702, and whatever safeguards could have been taken have lapsed and are accordingly no longer appropriate, *id.* As to the third factor, there is no governmental interest in violating the laws of the United States. An unconstitutional interest that involves running roughshod of the law cannot be deemed legitimate—let alone clear and convincing evidence that justifies depriving someone of their liberty, *see, e.g.*, *Addington*, 441 U.S. at 424.

158. Additionally, for noncitizens like Oscar, who have won deferred relief from removal, the government has established specific procedures pursuant to its Fear-Based Grant Release Policy: individualized review that requires the release of noncitizens pending final removal unless other exceptional circumstances compel continued detention. *See supra* ¶¶ 113-117. The policy creates a commonsense distinction between (a) the ongoing detention of noncitizens ordered removed to their country of origin; and (b) the narrow category of those whose removal to their countries of origin has been withheld because they would face grave risk of persecution or torture if returned. *Id.* As of March 28, 2025, the date Oscar was granted deferral of removal—he was entitled to the immediate review of his custody pursuant to the Policy.

159. Failing to have provided Oscar with such review amounts to an Administrative Procedures Act ("APA") violation under the *Accardi* doctrine, which recognizes that agencies are bound to follow their own rules that affect the fundamental rights of individuals—including self-imposed policies and processes that limit otherwise discretionary decisions. *See Accardi v. Shaughnessy*, 347 U.S. 260, 266 (1954); *Pacific Molasses Co. v. FTC*, 356 F.2d 386, 389–90 (5th Cir. 1966) (same). An agency's failure to follow its own policies that are intended to protect the rights of individuals, as required by the APA pursuant to the *Accardi* doctrine, is arbitrary, capricious, and contrary to law. *See, e.g.*, *Damus v. Nielsen*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) (explaining that "the premise underlying the Accardi doctrine is that agencies can be held accountable to their own codifications of procedures and policies—and particularly those that affect individual rights."); *Richardson v. Joslin*, 501 F.3d 415, 418 (5th Cir. 2007) (similar); *Newton v. Apfel*, 209 F.3d 448, 459 (5th Cir. 2000) (similar).

Oscar's Detention at the Largest Maximum-Security Prison in the United States Appears Strictly Based on His Prior Conviction, in Violation of Supreme Court Precedent and the Double Jeopardy Clause.

160. Detention based strictly on a prior conviction violates the Double Jeopardy Clause of the United States Constitution.[124] It is currently well-settled that the Double Jeopardy Clause protects persons from three distinct types of government abuses: (1) a second prosecution for the same offense after acquittal; (2) a second prosecution for the same offense after conviction; and (3) multiple punishments for the same offense.[125]

161. Immigration matters are grounded in civil rather than criminal law, *Zadvydas*, 533 U.S. at 690; yet, immigration detention maintains all the trappings of criminal confinement despite

[124] U.S. Const. amend. V.

[125] *See, e.g., Ex parte Lange*, 18 Wall. 163, 21 (1874); *North Carolina v. Pearce*, 395 U.S. 711,717 (1969); *Illinois v. Vitale*, 447 U.S. 410, 415 (1980); *Ohio v. Johnson*, 467 U.S. 493, 498-499 (1984).

not being rooted in the criminal justice system, and not being correctional in nature.[126]

162. Importantly, there is no question that imprisonment is synonymous with punishment.[127] Moreover, penalties simply labelled as civil do not escape scrutiny for criminal imputation in practice. Indeed, a civil penalty can constitute criminal punishment if it is sufficiently "punitive in either purpose or effect."[128] Even a partially punitive purpose is enough to render a penalty wholly punitive in effect, and thus subject to the protections, such as the right to an attorney, that criminal punishment offers.[129]

163. In *Kennedy v. Mendoza-Martinez*, the United States Supreme Court identified seven factors to assess whether a punishment labelled as civil qualifies as criminally punitive. 372 U.S. 144 (1963). The factors are (1) whether the sanction involves an affirmative disability or restraint; (2) whether it has historically been regarded as a punishment; (3) whether it comes into play only on a finding of scienter; (4) whether its operation will promote the traditional aims of punishment—retribution and deterrence; (5) whether the behavior to which it applies is already a crime; (6) whether an alternative purpose to which it may rationally be connected is assignable for it; and (7) whether it appears excessive in relation to the alternative purpose assigned. *Id.*

164. There is simply no way to disaggregate Angola from its past or the imprimatur placed upon it by the Administration as an intentional site for the criminal punishment of immigrants. *See supra*, ¶¶ 61-72. After all, Angola is notorious for its history as a plantation, and for its current

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126 *See* Livia Luan, *supra* note 44.

127 *See, e.g., Ex parte Lange*, 18 Wall. 163, 21 (1874); *Flemming v. Nestor*, 363 U.S. 603, 617 (1960); *Dep't of Revenue of Mont. v. Kurth Ranch*, 511 U.S. 767 (1994).

128 *United States v. Ward*, 448 U.S. 242, 249 (1980) (holding that if Congress designates a penalty as civil, the court must turn to factors in *Kennedy v. Mendoza-Martinez* to determine if a civil penalty is punitive); *Padilla v. Kentucky*, 559 U.S. 356, 374 (2010) (holding that an attorney has to advise a noncitizen client of the deportation consequences of a guilty plea); *see also In re Gault*, 387 U.S. 1 (1967); *Breed v. Jones*, 421 U.S. 519, 530 (1975).

129 *See Austin v. U.S.*, 509 U.S. 602 (1993); *Dep't of Revenue of Mont. v. Kurth Ranch*, 511 U.S. 767 (1994).

inhumane and brutal treatment of those detained there.[130] It is nicknamed "America's Bloodiest Prison" because of its history of prison deaths.[131] Placing Oscar at Camp 57 satisfies each of the seven *Kennedy* factors.

165. Taken together, and as further discussed below, these factors show that a civil penalty leading to indefinite detention at Angola is punitive, and therefore an unlawful form of criminal punishment. Here, there is no question that the purpose and effect of incarcerating Oscar—who has been granted CAT protection—at Angola for a term exceeding six months post final order of removal is punitive.

166. First, incarceration at Angola involves an affirmative disability and restraint. The Supreme Court has consistently held that imprisonment is the paradigmatic affirmative disability or restraint.[132] Those like Oscar incarcerated at Angola are within the physical borders of the prison. Indeed, it was the Louisiana State Department of Corrections, not LaSalle Corrections, which manages the facility, that responded to reports of a hunger strike at Camp 57. *See* **Exhibit 10** (Louisiana Department of Corrections response to hunger strike).

167. Second, incarceration at Angola—once regarded as the "Bloodiest Prison in America"[133]—was chosen by the Administration because of its uniquely horrifying history as an institution for criminal punishment. Respondent Noem herself proclaimed: "This is not just a typical ICE detention facility that you will see elsewhere in the country . . . . This is a facility that's notorious, it's a facility, Angola Prison is legendary."[134] She further elaborated that "this specific

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[130] *See* John Emshwiller et al., *The Prison-Industrial Complex*, N.Y. Times (Aug. 14, 2019), https://www.nytimes.com/interactive/2019/08/14/magazine/prison-industrial-complex-slavery-racism.html.

[131] Ja'han Jones, *supra* note 30.

[132] *See Smith v. Doe*, 538 U.S. 84, 100-102 (2003); *Hudson v. United States*, 522 U.S. 93, 104 (1997).

[133] Brooke Taylor, *New ICE detention facility "Louisiana Lockup" opens at notorious prison*, Fox News (Sept. 3, 2025), https://www.foxnews.com/politics/new-ice-detention-facility-louisiana-lockup-opens-notorious-prison.

[134] Kati Weis, Julia Ingram, *DHS opens new immigration detention facility inside Louisiana's Angola prison*, CBS News (Sept. 3, 2025), https://www.cbsnews.com/news/dhs-new-immigration-detention-facility-inside-louisiana-state-penitentiary-angola-prison/.

facility is going to host the most dangerous criminal illegal aliens in the country, because it is so secure.[135] Those individuals are being moved from other facilities around the country. . . because it is so secure behind these fences."[136]

168. Third, the underlying conviction that led to Oscar's indefinite incarceration at Angola required the presence of scienter. Oscar's conviction required tiered levels of intent that the Administration is now using to claim that he is allegedly specially dangerous.[137] But, as discussed *supra* ¶¶ 144-146, that characterization falls flat at law.

169. Fourth, incarceration at Angola promotes the traditional aims of punishment: retribution and deterrence. These goals are clear from the consistent messaging of the Administration. *See supra* ¶¶ 68-74. Governor Landry justified immigrant detention at Angola by saying that those detained there would "no longer threaten our families and communities,[138] echoing Respondent Trump's "Make America Safe Again promise.[139] Respondent Noem has claimed that Angola prison's "notorious" and "legendary" reputation will encourage immigrants to leave on their own—expressly showing that the intended desire of detention at Camp 57 is to deter immigration and seek retribution for previously committed crimes.[140]

170. Fifth, incarceration at Angola is as a result of behavior already classified as a crime. If not for the underlying crime, Oscar would not be detained at Angola. In *Padilla v. Kentucky*, 559 U.S. 356 (2010), the Supreme Court recognized the intertwining relationship between criminal and immigration law, and stated that immigration law is "intimately related to the criminal process.

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135 *Id.*
136 *Id.*
137 8 C.F.R. § 241.14(f).
138 U.S. Dep't of Homeland Sec., *Louisiana Lockup: A New Partnership with DHS and the State of Louisiana to Expand Detention Space* (Sept. 3, 2025), https://www.dhs.gov/news/2025/09/03/louisiana-lockup-new-partnership-dhs-and-state-louisiana-expand-detention-space.
139 *Id.* (describing efforts to mischaracterize noncitizens as "the worst").
140 Ja'han Jones, *supra* note 30.

Our law has enmeshed criminal convictions with the penalty of deportation for nearly a century." *Id.* at 365-366. "These changes to immigration law have dramatically raised the stakes of a noncitizen's criminal conviction." *Id.* at 364. Also, despite Congress's designation of immigration detention as a civil remedy that can be used for targeted purposes, this Administration continues to label immigrants as criminals to justify detention, particularly at Angola. *See supra* ¶¶ 12-14. Governor Landry expressly stated "Louisiana Lockup will give ICE the space it needs to lock up some of the worst criminal illegal aliens—murderers, rapists, pedophiles, drug traffickers, and gang members . . . . Criminal illegal aliens beware: Louisiana Lockup is where your time in America ends."[141]

171. Sixth, there is no alternative purpose—other than improper criminal punishment—that justifies the indefinite civil detention taking place at Angola for individuals like Oscar. The law prohibits using immigration detention in this manner. *See Zadvydas*, 533 U.S. 678, *Padilla*, 559 U.S. 356; *Kennedy*, 372 U.S. 144; *Austin*, 509 U.S. 602; *Dep't of Revenue of Mont. v. Kurth Ranch*, 511 U.S. 767 (1994). The anti-immigrant campaign under the guise of "Making America Safe Again" does not remotely outweigh or justify indefinite detention in "America's Bloodiest Prison" without any of the rights afforded to criminal defendants, including the right to an attorney afforded by the Sixth Amendment. *See infra* at ¶¶ 164-169. There is no legitimate non-punitive governmental objective that justifies such detention.

172. Finally, there is no question that incarceration at Angola is excessive. Detaining someone indefinitely at Angola without full due process rights on the basis of a criminal conviction (despite the individual already having served their sentence) is grossly disproportionate to a legitimate legal objective relating to civil detention—which proscribes holding someone like Oscar

[141] U.S. Dep't of Homeland Sec., *supra* note 139.

behind bars when his removal is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 699; *see also supra* ¶¶ 107-112. Individuals have already been forced to go on hunger strike because of the conditions they are subjected to in Camp 57—to demand basic necessities such as medical care, toilet paper, hygiene products, and clean drinking water.[142]

173. These factors show that Oscar's indefinite detention at Angola is unconstitutional under the Double Jeopardy Clause of the Fifth Amendment. Accordingly, Oscar's immediate release is warranted.

In the Event Respondents Seek to Hold Oscar in Indefinite Criminal Detention, Due Process Requires He Be Provided with a Full Adversarial Hearing and a Right to Counsel.

174. The Fifth Amendment guarantees that no person in the United States shall be deprived of liberty without due process. U.S. Const. amend. V. These substantive and procedural protections apply to all people, including noncitizens, regardless of their immigration status. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (*per curiam*) ("'It is well established that the Fifth Amendment entitles [noncitizens] to due process of law' in the context of removal proceedings." (quoting *Reno*, 507 U.S. at 306)).

175. The Supreme Court has consistently held that "some form of hearing is required before an individual is finally deprived of a property interest." *Mathews*, 424 U.S. at 333. Oscar's continued detention—one that deprives him of access to his property and personal liberty—requires an adversarial process, which has yet to be afforded to him.

176. Courts recognize three factors in determining a breach of procedural protections: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional

[142] Coral Murphy Marcos, *Ice detainees hold hunger strike at Louisiana state penitentiary*, Guardian (Sept. 21, 2025), https://www.theguardian.com/us-news/2025/sep/21/ice-detainee-hunger-strike-louisiana.

procedural safeguards; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail. *Id.* at 321. Oscar meets all three elements.

177. First, Oscar's private interest in his personal freedom, as well as his physical health and wellbeing, hinges on his ability to pursue procedural protections.

178. Second, the risk of depriving Oscar of procedural protections is exceptionally high. He remains behind bars while seeking an opportunity to adjudicate his freedom, and he has no guarantees of access to counsel as with a criminal proceeding, despite his criminalized treatment by Respondents, and the criminal posture (of double punishment) in which they have placed him within the legal system. *See supra* ¶¶ 162-164.

179. Third, by virtue of the One Big Beautiful Bill Act—and its infusion of tens of billions of dollars into the immigration detention system—Respondents are in a newfound fiscal state that allows for (a) the provision of access to counsel, and (b) the administration of the full adversarial hearing Oscar requires. Additionally, providing for such access to counsel and an adversarial hearing would prevent the errors Respondents have made to date wrongfully detaining and deporting people.[143]

180. "Due process is flexible and calls for such procedural protections as the particular situation demands," *Mathews*, 424 U.S. at 334 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)). Moreover, procedural due process rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases, not the rare exceptions. *Mathews*, 424 U.S. at 344. Oscar is not a rare exception because, upon information and belief, a number of other

[143] Laura Barrón-López, *American citizens wrongly detained in Trump administration's immigration crackdown*, PBS News (Apr. 23, 2025), http://pbs.org/newshour/show/american-citizens-wrongly-detained-in-trump-administrations-immigration-crackdown.

individuals with withholding or CAT protection are also detained at Camp 57.

181. A severe risk of legal error exists for indigent individuals placed behind bars. Because of that risk, the Supreme Court recognized the right to counsel for indigent individuals faced with criminal charges. *See Gideon v. Wainwright*, 372 U.S. 335, 342-43 (1963). Furthermore, in *Padilla v. Kentucky*, the Supreme Court recognized detention and deportation as drastic responses to a criminal conviction, such that assistance from counsel regarding the two (which are inherently enmeshed) is not categorically removed from the scope of the Sixth Amendment right to counsel. 559 U.S. 356, 365 (2010).

182. Oscar's current indefinite detention, on the grounds of the largest and most notorious maximum-security prison in the country, requires that he be afforded both a hearing and counsel. He is experiencing double punishment—making it imperative that he obtain the same procedural protections he had when he was being adjudged (for the same crime that placed him at Angola) the first time around. *See supra*, ¶¶ 18, 160-173.

183. It is well known that the right to counsel extends to criminal prosecutions where a person's liberty is at stake and they may be incarcerated if convicted. *See Argersinger v. Hamlin*, 407 U.S. 25, 40 (1972) (finding that individuals who are detained with no felony charges and will potentially lose their liberty as a result of being detained meet the standard for a right to counsel for misdemeanor charges).

184. Ultimately, because Oscar has not been provided with an adversarial hearing to challenge his wrongful and indefinite detention, despite Respondents' fiscal and administrative ability to now do so in light of the passage of the One Big Beautiful Bill Act, he should be released. *See Zadvydas*, 533 U.S. at 690 (explaining that immigration proceedings "are civil, not criminal, and we assume that they are nonpunitive in purpose and effect," and that "government detention

violates [due process] unless the detention is ordered in a *criminal* proceeding with adequate procedural protections, or, in certain special and 'narrow' nonpunitive 'circumstances' . . . ." (internal citations omitted)); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (indefinite civil commitment permissible only if "a 'full-blown adversary hearing,' [were held] to convince a neutral decisionmaker by clear and convincing evidence that no conditions of release can reasonably assure the safety of the community or any person—*i.e.*, that the 'arrestee presents an identified and articulable threat to an individual or the community'").

CLAIMS FOR RELIEF

COUNT ONE

Oscar's Detention Violates 8 U.S.C. § 1231(a)(6), Ergo Supreme Court Precedent and His Substantive Due Process Right, Because His Removal Is Not Reasonably Foreseeable.

185. Oscar realleges and incorporates by reference the paragraphs above.

186. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the [noncitizen's] removal from the United States." 533 U.S. at 680.

187. Oscar's continued detention after being granted CAT protection has become unreasonable. His removal is not reasonably foreseeable, as efforts to deport him to a third country have failed. Additionally, because he is not "specially dangerous," and he has been detained for six months beyond his final order of removal, his detention violates Section 1231(a)(6) and, accordingly, Supreme Court precedent. *Zadvydas*, 533 U.S. 678.

188. Oscar's detention also violates substantive due process. To comply with this clause, civil detention must "bear[] a reasonable relation to the purpose for which the individual was committed," which for immigration detention is removal from the United States. *Demore*, 538 U.S. at 527 (citing *Zadvydas*, 533 U.S. at 690). But Oscar is being detained for purposes that do

not comport with the narrow parameters applicable to civil immigration detention, foregrounding a substantive due process violation. *See Kansas*, 521 U.S. at 358 ("A finding of dangerousness, standing alone, is ordinarily not a sufficient ground upon which to justify indefinite involuntary commitment.").

189. Oscar's immediate release is accordingly appropriate.

COUNT TWO

Oscar's Detention Violates Procedural Due Process Because He Is Not Being Afforded Process Concerning Respondents' Attempts to Remove Him to a Third Country.

190. Oscar realleges and incorporates by reference the paragraphs above.

191. The Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Cont. amend. V. Furthermore, "[t]he fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews*, 424 U.S. at 333 (internal quotations omitted).

192. Respondents' failure to afford Oscar mandated procedural due process concerning third country removal, including the opportunity to be heard on a fear claim, violates the Due Process Clause. *See, e.g., Vaskanyan*, 2025 U.S. Dist. LEXIS 137846 at *16 n.1 ("Any efforts to remove Petitioner to a third country must comport with due process. As Respondents admitted . . . [,] ICE is required as a matter of law and protocol to afford Petitioner a meaningful opportunity to contest his removal to a third country on the basis of fear of persecution or torture.").

193. Oscar is also eligible for release pursuant to ICE's Fear-Based Grant Release Policy because an IJ granted him CAT relief. On information and belief, he received no such review for release. Not providing him with such review affects his due process rights because failing to do so violates the APA and the *Accardi* doctrine. Under the *Accardi* doctrine, agencies are bound to follow their own rules that affect the fundamental rights of individuals, even self-imposed policies

and processes that limit otherwise discretionary decisions. 347 U.S. at 260 (holding that Board of Immigration Appeals must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

194. These due process failures militate in favor of Oscar's immediate release.

COUNT THREE

Oscar's Detention at Camp 57 Amounts to Being Twice Punished for the Same Crime in Violation of the Double Jeopardy Clause.

195. Oscar realleges and incorporates by reference the paragraphs above.

196. Oscar is being subjected to double punishment for a crime for which he already served his time. This is evinced by virtue of the very fact that he is being detained at Angola—and because the rationale provided for his indefinite detention appears to be his previous crime, for which he cannot be doubly punished. *See Zadvydas*, 533 U.S. at 690 (explaining that immigration proceedings "are civil, not criminal, and we assume that they are nonpunitive in purpose and effect," and that "government detention violates [due process] unless the detention is ordered in a *criminal* proceeding with adequate procedural protections, or, in certain special and 'narrow' nonpunitive 'circumstances' . . . ." (internal citations omitted)).

197. Additionally, Oscar satisfies the seven *Kennedy* factors, 372 U.S. at 168-69, which show his civil detention effectively amounts to criminal punishment. *Compare Kansas*, 521 U.S. at 358 ("[N]one of the parties argues that people institutionalized under the Kansas general civil commitment statute are subject to punitive conditions.").

198. Oscar's immediate release is therefore warranted.

COUNT FOUR

Alternatively, Oscar's Freedom Is Contingent on His Being Entitled to a Full Adversarial Hearing in Accordance with Due Process, for Which He Should Be Afforded Counsel.

199. Oscar realleges and incorporates by reference the paragraphs above.

200. Oscar has been denied the right to an adversarial hearing, despite being subjected to criminal punishment, in violation of his right to due process. *See Zadvydas*, 533 U.S. at 690 (explaining that immigration proceedings "are civil, not criminal, and we assume that they are nonpunitive in purpose and effect," and that "government detention violates [due process] unless the detention is ordered in a *criminal* proceeding with adequate procedural protections, or, in certain special and 'narrow' nonpunitive 'circumstances' . . . ." (internal citations omitted)).

201. Because Oscar satisfies the three due process *Mathews* factors, 424 U.S. 319 at 335, he has demonstrated that—in the absence of an adversarial hearing and the right to counsel—release is the only appropriate available remedy. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (indefinite civil commitment permissible only if "a 'full-blown adversary hearing,' [were held] to convince a neutral decisionmaker by clear and convincing evidence that no conditions of release can reasonably assure the safety of the community or any person—*i.e.*, that the 'arrestee presents an identified and articulable threat to an individual or the community'").

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully asks this Court to:

1) Assume jurisdiction over this matter;
2) Issue an order prohibiting Respondents from transferring him outside of this judicial district during the pendency of these proceedings;
3) Declare Respondents' indefinite detention of Oscar unconstitutional;
4) Declare Respondents' detention of Oscar at Camp 57 unconstitutional;

5) Issue a writ of habeas corpus ordering Oscar's immediate release;

6) Declare the use of Camp 57 to civilly detain immigrants unconstitutional;

7) In the alternative, order Respondents to provide Oscar with a full adversarial hearing concerning their desire to indefinitely detain him for his prior crime, and order that he be provided with a Sixth Amendment right to counsel at that hearing.

8) Grant such further relief as the Court deems just and proper.

Dated: October 6, 2025

Respectfully submitted,

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner, and/or someone acting on his behalf, the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Dated: October 6, 2025

/s/Charles Andrew Perry
Charles Andrew Perry
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