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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

Seattle Division

MEHRAD GHASEDI

Petitioner,

v.

CAMMILLA WAMSLEY, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"), TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"), U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS"), U.S. DEPARTMENT OF HOMELAND SECURITY, PAMELA BONDI, Attorney General of the United States, and BRUCE SCOTT, Warden, Northwest ICE Processing Center.

Respondents.

Case No.

Agency No. [redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE RELIEF

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. Petitioner Mehrad Ghasedi, a 38-year-old citizen and national of Iran, has been residing in the United States for more than twenty-four years. At the age of 14, he arrived in the United States for lawful permanent residence on March 6, 2001. He has spent his entire adult life in the United States.

2. On or about February 25, 2021, Respondent ICE detained Petitioner and initiated removal proceedings against him before the immigration court in Tacoma, Washington. After the court's entry of a removal order against him on March 24, 2021, his detention continued for more than ninety days. Afterwards, ICE found Petitioner neither a flight risk nor danger to the community when they released him from their custody on July 29, 2021 under an order of supervision.

3. Since his release, Petitioner has complied with all orders, instructions, and rules required of him. On July 17, 2025, Respondents suddenly revoked his order of supervision, re-detained him in Eugene, Oregon and transferred him to Tacoma, Washington for detention, away from the district of his family and community. Respondents have done so based not on his personal circumstances or facts, but on Respondents' interpretation of President Trump's whim. Continued detention is unlawful because such detention constitutes an arbitrary and capricious act and further violates Petitioner's due process rights.

4. Petitioner brings this action for habeas, injunctive and declaratory relief ordering Respondents to release him.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

6. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Administrative Procedures Act (APA), 5 U.S.C. §551, et. Seq., and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

8. Venue is proper because Petitioner is presently detained within this judicial district in Tacoma, Washington. Venue is further proper because a substantial part of the events or omissions giving rise to his claims occurred in this District, where Petitioner is detained by Respondent U.S. Immigration and Customs Enforcement. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and

imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

11. Petitioner is "in custody" for the purpose of § 2241 because he has been detained by Respondent ICE in Tacoma, Washington since July 17, 2025.

PARTIES

12. Petitioner Mehrad Ghasedi is a resident of Eugene, Oregon, who is detained in Tacoma, Washington, and thus is present within the State of Washington as of the time of the filing of this petition. He entered the United States lawfully for permanent residence in March 2001 and has been residing in the United States ever since his entry. He has been re-arrested and unlawfully re-detained under the direct control of Respondents and their agents since July 17, 2025. He is presently under the threat of deportation based on the 2021 removal order.

13. Respondent Cammilla Wamsley is the Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations ("ICE"). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Respondent Wamsley is a legal custodian of Petitioner.

14. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Cammilla Wamsley and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

15. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner.

16. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice, which includes the Executive Office for Immigration Review ("EOIR"). EOIR includes, among other components, the immigration courts located in various offices throughout the United States.

17. Respondent Bruce Scott is the Warden of Northwest ICE Processing Center, located in Tacoma, Washington, where Petitioner is currently detained by ICE. Respondent Scott is a legal custodian of Petitioner.

18. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

19. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

20. This action is commenced against all Respondents in their official capacities.

21. The validity of Petitioner's prior removal order is not currently the subject of any judicial proceeding.

LEGAL FRAMEWORK

Section 240 Removal Proceedings and the Statutory Scheme to Designate Countries of Removal

22. In standard removal proceedings (commonly referred to as "Section 240" proceedings), an Immigration Judge is authorized to issue an order of removal against the noncitizen who is the subject of the proceeding. "After determining that a noncitizen is removable, an IJ must assign a country of removal." *Hadera v. Gonzales*, 494 F.3d 1154, 1156 (9th Cir. 2007).

23. "The method by which [an Immigration Judge] may designate a country as the country for removal for any given [noncitizen] is established in 8 U.S.C. § 1231(b)." *Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004). Where removal proceedings are initiated after a noncitizen's arrival in the United States—as was the case for Petitioner—the multi-stage country designation process is set forth in 8 U.S.C. § 1231(b)(2).[1] *See also Hadera*, 494 F.3d at 1156; *Jama v. ICE*, 543 U.S. 335, 341 (2005).

24. First, the noncitizen is entitled to select a country of removal. 8 U.S.C. § 1231(b)(2)(A). If either the noncitizen does not select a country, or as an alternative in the event the noncitizen's designated country does not accept the individual, the IJ will designate the country where the person "is a subject, national, or citizen." 8 U.S.C. § 1231(b)(2)(D). The IJ may also designate the following additional countries, as specifically set forth in the statute:

(i) The country from which the [noncitizen] was admitted to the United States.

(ii) The country in which is located the foreign port from which the [noncitizen] left for the United States or for a foreign territory contiguous to the United States.

(iii) A country in which the [noncitizen] resided before the [noncitizen] entered the country from which the [noncitizen] entered the United States.

(iv) The country in which the [noncitizen] was born.

(v) The country that had sovereignty over the [noncitizen's] birthplace when the [noncitizen] was born.

(vi) The country in which the [noncitizen's] birthplace is located when the [noncitizen] is ordered removed.

[1] References to the Attorney General in Section 1231(b) refer to the Secretary of DHS for functions related to carrying out a removal order and to the Attorney General for functions related to selection of designations and decisions about fear-based claims. 6 U.S.C. § 557. The Attorney General has delegated the latter functions to the immigration courts and Board of Immigration Appeals. *See* 8 C.F.R. §§ 1208.16, 1208.17, 1208.31,1240.10(f), 1240.12(d).

> (vii) If impracticable, inadvisable, or impossible to remove the [noncitizen] to each country described in a previous clause of this subparagraph, another country whose government will accept the [noncitizen] into that country.

8 U.S.C. § 1231(b)(2)(E).

25. "Unlike clauses (i)-(vi), clause (vii) has an *explicit* requirement that the designated country be *willing* to accept the [noncitizen]." *Himri*, 378 F.3d at 939 (emphasis added). This means that, "at the time the government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must be able to show that the proposed country *will* accept the [noncitizen]." *Id.* Where a country has been improperly designated as a country of removal, a noncitizen "may not be removed there." *Id.*

26. The IJ must notify the noncitizen of the designated country or countries of removal. 8 C.F.R. § 1240.10(f) (providing that "the immigration judge shall notify the respondent" of designated countries of removal).

27. Federal regulations provide that if the DHS "is unable to remove the [noncitizen] to the specified or alternative country or countries, the order of the immigration judge does not limit the authority of [DHS] to remove the [noncitizen] to any other country *as permitted by [§ 1231(b)]*." 8 C.F.R. § 1240.12(d) (emphasis added).

Requirement that Noncitizens Be Provided Notice and Opportunity to Present a Fear-Based Claim Before Deportation to Any Country

28. For individuals in removal proceedings, the designation of a country of removal (or, at times, alternative countries) on the record provides notice and an opportunity for a noncitizen who fears persecution or torture in the designated country (or countries) to file an application for protection from removal. *See* 8 C.F.R. §§ 1240.10(f), 1240.11(c)(1)(i), 1208.16.

29. Indeed, removal to *any* country designated under 8 U.S.C. § 1231(b)(2) is

"subject to" restrictions on removal set forth in 8 U.S.C. § 1231(b)(3)(A), a form of protection of removal known as withholding of removal. *See* 8 U.S.C. § 1231(b)(2). The government "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." 8 U.S.C. § 1231(b)(3)(A). *See also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

30. Certain individuals in Section 240 proceedings are ineligible for withholding of removal, for example, because of certain criminal convictions, but are still entitled to receive protection from removal in the form of deferral of removal under the Convention Against Torture upon demonstrating a likelihood of torture if removed to the designated country of removal. *See* FARRA 2681–822 (codified as Note to 8 U.S.C. § 1231) ("It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."). *See also* 8 C.F.R. §§ 208.16(c), 208.17(a), 1208.16(c), 1208.17(a); 28 C.F.R. § 200.1.

31. Like withholding of removal, CAT protection is mandatory. *Id.* An individual granted CAT protection as to the designated country of removal may not be removed to any other country where he is "likely to be tortured." 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2).

32. In *Jama v. ICE*, 543 U.S. 335, the Supreme Court confirmed that noncitizens who "face persecution or other mistreatment in the country designated under § 1231(b)(2), . . . have a number of available remedies: asylum; withholding of removal; relief under an

international agreement prohibiting torture . . . ." *Jama*, 543 U.S. at 348 (citing 8 U.S.C. §§ 1158(b)(1), 1231(b)(3)(A); 8 C.F.R. §§ 208.16(c)(4), 208.17(a)).

33. An IJ may not make a "last minute" designation of an additional country of removal, because that would deprive the individual of a meaningful opportunity to apply for fear-based protection from removal. *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999). Such an action would "violate[s] a basic tenet of constitutional due process." *Id.* "[I]ndividuals whose rights are being determined are entitled to notice of the issues to be adjudicated, so that they will have the opportunity to prepare and present relevant arguments and evidence." *Id.*

34. Because withholding of removal and CAT protection are country-specific, a noncitizen must be given notice of the designated country of removal *before* he can present a fear-based claim as to that country. *See id.*; *Hadera*, 494 F.3d at 1159; 8 C.F.R. §§ 1208.16, 1208.17. A noncitizen "is not entitled to adjudication of an application for withholding of removal to a country that nobody is trying to send them to." *She v. Holder*, 629 F.3d 958, 965 (9th Cir. 2010), *superseded by statute on other grounds*.

35. Individuals in Section 240 proceedings are entitled to an administrative appeal to the BIA along with an automatic stay of deportation while the appeal is pending. 8 U.S.C. § 1101(a)(47)(B); 8 C.F.R. §§ 1003.6(a), 1240.15. Such individuals may also seek judicial review of an adverse administrative decision by filing a petition for review in the court of appeals. *See* 8 U.S.C. § 1252(a); *Nasrallah v. Barr*, 590 U.S. 573 (2020) (holding that noncitizens are entitled to judicial review of factual challenges to an IJ's CAT determination).

The DHS's Statutory Detention Authority During and After Removal Proceedings

36. "The statutory scheme governing the detention of [noncitizens] in removal

proceedings is not static; rather, the [government's] authority over a [noncitizen's] detention shifts as the [noncitizen] moves through different phases of administrative and judicial review." *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 945 (9th Cir. 2008); *overruled on other grounds by Avilez v. Garland*, 69 F.4th 525, 529 (9th Cir. 2023).

37. 8 U.S.C. § 1226 sets out a framework for the detention and release of noncitizens during their administrative removal proceedings.

38. Section 1226(a) "sets out the default rule." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) ("*Rodriguez IV*"). The government may arrest and detain a noncitizen "pending a decision on whether the [noncitizen] is to be removed from the United States" and, "[e]xcept as provided in subsection (c) [of Section 1226] . . . may continue to detain" or "may release" the noncitizen pending removal proceedings. 8 U.S.C. § 1226(a). Regulations provide that noncitizens detained under Section 1226(a) "receive bond hearings at the outset of detention." *Rodriguez IV*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).

39. Section 1226(c) creates a narrow exception to the default rule of bond eligibility. Paragraph (1) of Section 1226(c) provides that the government "shall take into custody any [noncitizen] who" is removable on certain criminal and national security grounds, "when the [noncitizen] is released" from criminal custody. 8 U.S.C. § 1226(c)(1). Section 1226(c) subjects certain noncitizens to mandatory detention without the individualized bond hearing contemplated by Section 1226(a).

40. A noncitizen placed in Section 240 removal proceedings remains subject to detention under Section 1226 while their removal proceedings are pending before the IJ and the BIA. Section 1226 also governs while such individuals seek judicial review of their removal order, including judicial review of an IJ's denial of an application for protection under the CAT.

See Avilez, 69 F.4th at 537-38.

41. 8 U.S.C. § 1231 authorizes the detention of noncitizens who have been issued a final order of removal. "Section 1231(a) does not apply to detention during the pendency of administrative or judicial removal proceedings." *Avilez*, 69 F.4th at 530-31. "Section 1231 instead governs detention during a ninety-day 'removal period' after the conclusion of removal proceedings. 8 U.S.C. § 1231(a)(1)–(2)." *Id.* For noncitizens who are not removed during the ninety-day "removal period," their detention is governed by Section 1231(a)(6). Such individuals may not be detained beyond "a period reasonably necessary to secure removal." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). "Thus, if removal is not reasonably foreseeable . . . continued detention [is] unreasonable and no longer authorized by statute." *Id.* at 699-700.

42. Even after a final order of removal has been issued, removal proceedings may be reopened. 8 U.S.C. § 1229a(c)(7); 8 C.F.R. § 1003.23(b)(1). If the IJ "grants a motion to reopen . . . the final deportation order is vacated—that is, it is as if it never occurred." *Bonilla v. Lynch*, 840 F.3d 575, 589 (9th Cir. 2016). *See also Nken v. Holder*, 556 U.S. 418, 429 n.1 (2009).

FACTUAL BACKGROUND

43. Petitioner is a citizen of Iran. He entered the United States legally as a lawful permanent resident on March 6, 2001. At that time, he was 14 years old.

44. Petitioner has established deep roots in the United States. His mother Farahnaz Saboorizadeh is a naturalized citizen of the United States. Petitioner and his mother have lived in Eugene, Oregon where they maintain their home. Since his entry in March 2001, he has attended high school, learned to speak fluent English, and maintained gainful employment. He

has been fully assimilated to American culture and long considered the United States his only home in the world.

45. On February 25, 2021, Petitioner was detained by Respondent ICE and charged with deportability ground under INA 237(a)(2)(B)(i) based on his conviction of unlawful possession of Methamphetamine in violation of ORS 475.894(2)(b) before the Circuit Court of Oregon for the County of Lane located in Eugene, Oregon.

46. While detained in ICE custody in Tacoma, Washington, Petitioner was placed in Section 240 removal proceedings before the immigration court. These removal proceedings were initiated against Petitioner after he had served his sentence imposed by the state court for the criminal offense and had been punished fully for his criminal conduct. In removal proceedings, his conviction was used a second time to punish him by stripping away his lawful permanent resident status and deporting him to Iran, a country he had left more than 20 years ago, where he has not maintained any meaningful ties.

47. During removal proceedings, Petitioner did not apply for relief from removal. On March 24, 2021, the Immigration Judge entered an order for removal that designated Iran as the country of removal.

48. After entry of the removal order, Petitioner was detained for removal to Iran for a period from March 24 to July 29, 2021. During that period, Respondents attempted to remove Petitioner to Iran but failed in doing so.

49. On July 29, 2021, Respondent ICE released Petitioner pursuant to an Order of Supervision after his post-removal detention exceeded the 90-day period authorized by the statute. The Order required Petitioner to report in person at the ICE office in Eugene, Oregon,

provide ICE with written requests to the consulates for issuance of a travel document, notify ICE of travel outside Oregon, and commit no crimes.

50. Upon his release, Petitioner returned to his family in Eugene, Oregon where he and his mother maintained their residence until he was re-detained on July 17, 2025.

51. Petitioner fully complied with the conditions of his release. He has reported to ICE as required, has cooperated with ICE in their attempts to obtain a travel document to deport him to Iran, and has not committed any crimes. No circumstances have changed that make Petitioner a flight risk or danger to the community.

The Trump Administration Begins an Unprecedented Campaign to Detain and Deport Noncitizens Without Due Process

52. Since January 2025, the federal government of the United States has begun a campaign to deport large numbers of noncitizens from the United States at any cost. It has aggressively acted to remove individuals to countries other than those designated for removal. This process is known as "third country removals."

53. On the campaign trail in 2024, Donald J. Trump promised that "[a]s soon as I take the oath of office . . . we will begin the largest deportation operation in the history of our country."[2] During his inauguration speech, Trump announced he would "begin the process of returning millions and millions of criminal aliens back to places from which they came."[3]

54. On January 20, 2025, President Trump signed an Executive Order, entitled Securing our Borders, in which he instructed the Secretary of State, Attorney General, and DHS Secretary to "take all appropriate action to facilitate additional international cooperation and

[2] Catherine E. Shoichet, *Trump's mass deportation plans would be costly. Here's why*, CNN (Nov. 7, 2024), https://www.cnn.com/2024/10/19/politics/trump-mass-deportation-cost-cec.
[3] Donald J. Trump, *The Inaugural Address*, The White House (Jan. 20, 2025), https://www.whitehouse.gov/remarks/2025/01/the-inaugural-address/.

agreements, . . ., including [safe third country agreements] or any other applicable provision of law." Exec. Order No. 14165, 90 Fed. Reg. 8467, 8468 (Jan. 20, 2025). In February, Secretary of State Marco Rubio visited several Central American countries to negotiate acceptance of noncitizens from the United States, including individuals with final removal orders.[4] News outlets later reported that the administration had expanded its efforts to deport noncitizens from the United States to war-torn countries known for brutality and human rights abuses, including Libya.[5] At a cabinet meeting, Secretary Rubio stated that the administration intends to use foreign prisons as part of a mass deportation effort, stating, "'We are working with other countries to say, 'We want to send you some of the most despicable human beings to your countries.'"[6]

55. Within a week of Trump's inauguration, the Washington Post reported that ICE officials had been directed to increase arrests to meet daily quotas.[7] Each field office was instructed to make 75 arrests per day, with managers "held accountable" for failing to meet the targets. *Id.* Nationally, this would increase daily ICE arrests from a few hundred per day to at least 1,200 to 1,500. *See id.* By early February, NBC News reported that Trump was "angry" that deportation numbers were not higher, which placed "[a]gents at [ICE] under increasing

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[4] Camilo Montoya-Galvez, *Trump Eyes Asylum Agreement with El Salvador to Deport Migrants There*, CBS News (Jan. 27, 2025), https://www.cbsnews.com/news/trump-eyes-asylum-agreement-el-salvador-deportation-migrants/; Matthew Lee, *Guatemala Gives Rubio a Second Deportation Deal for Migrants Being Sent Home from the US*, AP News (Feb. 5, 2025), https://apnews.com/article/rubio-guatemala-trump-immigration-migrants-3cae5b616e1535e480e4f68c2641868c.

[5] Amanda Taub, *The Trump Administration is Lining Up More Countries to Take Its Deportees*, New York Times (May 14, 2025), https://www.nytimes.com/2025/05/14/world/trump-administration-deportees.html.

[6] Gregory Svirnovskiy, *White House looking for other countries to accept deportees*, Politico (Apr. 30,2025),https://www.politico.com/news/2025/04/30/white-house-looking-other-countries-accept-deportees-00319541.

[7] Nick Miroff and Maria Sacchetti, *Trump officials issue quotas to ICE officers to ramp up arrests*, Washington Post, (Jan. 26, 2025), https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/.

pressure to boost the number of arrests and deportations . . ."[8] NBC news further reported that in May, White House Deputy Chief of Staff Stephen Miller threatened to fire senior ICE officials if they did not begin detaining 3,000 immigrants per day.[9] Also in May, the DHS issued a press release marking Respondent Noem's first 100 days in office which announced that "Secretary Noem is fulfilling President Trump's promise to carry out mass deportations—starting with the worst of the worst," including "criminal illegal aliens with convictions" and gang members. [10] The DHS boasted that the agency "has arrested over 168,000 illegal aliens in 2025" and "[d]eportations have already exceeded 152,000—this is just the beginning." *Id.*

56. As part of its efforts to ramp up arrests and deportations, on or about February 18, 2025, DHS issued a national directive for ICE officers to "carefully review for removal all cases" of all individuals—like Petitioner—who are not detained but who are periodically reporting to ICE. Reuters published a copy of the February 18, 2025 directive on March 6, 2025.[11]

57. Meanwhile, the federal government has begun to remove noncitizens from the United States to third countries without due process.

58. On March 15, 2025, the Trump administration invoked the Alien Enemies Act of

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[8] *See* Kristin Welker and Julia Ainsley, *Trump is 'angry' that deportation numbers are not higher*, NBC News (Feb. 7, 20205, 1:28 PM), https://www.nbcnews.com/politics/national-security/trump-angry-deportation-numbers-are-not-higher-rcna191273.

[9] Julia Ainsley, et. al., *A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement,* NBC News (Jun. 4, 2025), https://www.nbcnews.com/politics/justice-department/ice-operation-trump-focus-immigration-reshape-federal-law-enforcement-rcna193494.

[10] Press Release, *100 Days of Secretary Noem: Making America Safe Again*, U.S. Department of Homeland Security (May 5, 2025), https://www.dhs.gov/news/2025/05/05/100-days-secretary-noem-making-america-safe-again.

[11] Ted Hesson and Kristina Cooke, *Trump Weighs Revoking Legal Status of Ukrainians as US Steps Up Deportations*, Reuters (Mar. 6, 2025), https://www.reuters.com/world/us/trump-plans-revoke-legal-status-ukrainians-who-fled-us-sources-say-2025-03-06/. The article links to the directive. (last visited Jun. 19, 2025).

1798 ("AEA") to send hundreds of Venezuelans, whom the government claimed were members of the Tren de Aragua gang, from the United States directly to El Salvador's mega prison, the Center for Terrorism Confinement ("CECOT"), without providing the individuals any process by which they could challenge their expulsion and transfer to El Salvador.[12] Respondents proceeded with the deportations despite an order from District Judge Boasberg—issued before the planes had landed in El Salvador—to return the planes to the U.S. *See J.G.G. v. Trump*, No. 1:25-cv-00766-JEB, -- F.Supp.3d --, 2025 WL 1119481, at *1 (D.D.C. Apr. 16, 2025), *appeal filed*, *J.G.G. v. Trump* (D.C. Cir.). Judge Boasberg found probable cause existed for finding Trump administration officials in criminal contempt because "the Government's actions on [March 15, 2025] demonstrate a willful disregard for [the court's] Order...." *See id.* After the Supreme Court ruled that individuals subject to detention and removal under the Alien Enemies Act were entitled to due process and judicial review, *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025), Trump stated: "I hope we get cooperation from the courts, because we have thousands of people that are ready to go out and you can't have a trial for all of these people."[13] He issued a social media post stating, "[w]e cannot give everyone a trial, because to do so would take, without exaggeration, 200 years." *Id.*

59. In February 2025, an IJ granted withholding of removal to O.C.G., a noncitizen from Guatemala. The same day, the DHS deported O.C.G. to Mexico, a country where he had previously been held for ransom, without any advance notice and without providing him with opportunity to seek fear-based relief from Mexico. *See DVD v. U.S. Department of Homeland*

[12] Myah Ward, *Behind Trump's push to erode immigrant due process rights*, Politico (Apr. 28, 2025),https://www.politico.com/news/2025/04/28/trump-immigration-100days-due-process-00307435.

[13] Luke Broadwater, *Trump Says Undocumented Immigrants Shouldn't Get Trials Before Deportation*, New York Times, (Apr. 22, 2025), https://www.nytimes.com/2025/04/22/us/politics/trump-undocumented-immigrants-trials-deportation.html.

Security, Case No. 1:25-CV-10676-BEM (D. Mass), Dkt. Nos. 1, 132.[14]

DVD v. DHS Class Action Lawsuit, March 30, 2025 DHS Memo, and Nationwide Preliminary Injunction

60. On March 23, 2025, noncitizens D.V.D., M.M., E.F.D., and O.C.G., on behalf of themselves and a proposed nationwide class of similarly situated individuals, filed a class action complaint in the District of Massachusetts challenging the DHS's policy or practice of deporting individuals to a third country (i.e., a country never designated for removal) without first providing them with notice or opportunity to contest removal based on their fear of persecution and torture in that third country. *DVD v. U.S. Department of Homeland Security*, Case No. 1:25-CV-10676-BEM (D. Mass) (Mar. 23, 2025).

61. On March 30, 2025, two days after the District Court issued a temporary restraining order in *DVD*, the DHS issued a memorandum entitled, "Guidance Regarding Third Country Removals." *see DVD v. DHS*, Case No. 1:25-CV-10676-BEM, Dkt. 43-1. The memo "clarifies DHS policy regarding the removal of aliens with final orders of removal . . . to countries other than those designated for removal in those removal orders." *Id.* It provides that DHS may remove noncitizens to a country "that had not previously been designated as the country of removal," without notice to the noncitizen, and without an opportunity for the individual to apply for withholding or CAT protection as to the third country, so long as DHS has determined that the country "has provided diplomatic assurances that aliens removed from the United States will not be persecuted or tortured" and "the Department of State

[14] He was returned to the United States in early June, after District Judge Brian Murphy ordered the government to facilitate his return. *See* Nate Raymond, *Guatemalan deportee arrives in US after judge orders Trump to facilitate return*, Reuters (Jun. 4, 2025), https://www.reuters.com/world/us/guatemalan-deportee-arrives-us-after-judge-orders-trump-facilitate-return-2025-06-04/.

believes those assurances to be credible." *Id.* The memo does not require any individualized assurances against mistreatment, as the statute and regulations require. *Id.; see* FARRA 2681–822; 8 C.F.R. 208.17(b)(2); 1208.17(b)(2); *see also Jama*, 543 U.S. at 348. Further, blanket assurances do not protect against torture by non-state actors, *see* 8 C.F.R. 208.17(a)(7), nor chain refoulement, whereby the third country proceeds to return an individual back to the noncitizen's country of origin. The memo provides for no avenue for the noncitizen to seek review of the assurances, which violates due process. The memo does not require DHS to make the requisite showing under § 1231(b)(2)(E)(vii) that a third country will accept the noncitizen. Further, even where diplomatic assurances are not at issue, the memo does not ensure that a noncitizen will be able to present a CAT claim to an Immigration Judge. *See id.* It also directs a reopening scheme that purports to limit the IJ's ability to designate the country of removal and the noncitizen's ability to contest the designation. *See id.*

62. On April 18, 2025, Judge Brian Murphy issued an order certifying the following nationwide class pursuant to Fed. R. Civ. P. 23(b)(2):

> All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) whom DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

DVD v. DHS, -- F. Supp. 3d --, 2025 WL 1142968, at *14-*19 (D. Mass. Apr. 18, 2025), *opinion clarified on other grounds,* 2025 WL 1323697 (D. Mass. May 7, 2025), and 2025 WL 1453640 (D. Mass. May 21, 2025), *reconsideration denied sub nom. DVD v. DHS*, 2025 WL 1495517 (D. Mass. May 26, 2025); *appeal pending sub nom DVD v DHS* (1st Cir. Case No. 25-1393); *order stayed on other grounds by DHS v. DVD*, Case No. 24A1153, 2025 WL 1732103 (June 23,

2025) (staying the preliminary injunction which was contained in the same order as the class certification).

63. In the present case, Petitioner will be considered a *DVD* class member if ICE attempts to deport him to a third county because he has a final removal order to Iran. No other country besides Iran has been identified as a country of removal or alternate country of removal. Yet he faces removal to a third country.

64. Also on April 18, 2025, Judge Murphy granted DVD's motion for a preliminary injunction in part, and granted class members certain interim relief. *See DVD,* 2025 WL 1142968, at *24. The Court ordered that, prior to removing any *DVD* class members, including Petitioner, to a third country, i.e., any country not explicitly provided for on the noncitizen's order of removal, the government must: "(1) provide written notice to the [noncitizen]—and the [noncitizen]'s immigration counsel, if any—of the third country to which the noncitizen may be removed, in a language the [noncitizen] can understand; (2) provide meaningful opportunity for the [noncitizen] to raise a fear of return for eligibility for CAT protections; (3) move to reopen the proceedings if the [noncitizen] demonstrates "reasonable fear"; and (4) if the [noncitizen] is not found to have demonstrated "reasonable fear," provide meaningful opportunity, and a minimum of 15 days, for that [noncitizen] to seek to move to reopen immigration proceedings to challenge the potential third-country removal." *Id.*

65. On June 23, 2025, the United States Supreme Court stayed Judge Murphy's preliminary injunction pending disposition of the government's appeal in the United States Court of Appeals for the First Circuit and disposition of a petition for a writ of certiorari, if such writ is timely sought. *Department of Homeland Security v. DVD*, ---S.Ct.---, 2025 WL 1732103 (June 23, 2025).

66. On or about May 20, 2025, prior to the Supreme Court's stay of the *DVD* preliminary injunction, the federal government "rac[ed] to get six [*DVD*] class members onto a plane to unstable South Sudan, clearly in breach of the law and [Judge Murphy's preliminary injunction]." *DVD v. DHS*, 2025 WL 1495517, at *1 (D. Mass. May 26, 2025). After the deportation flights had departed the United States, but before they reached South Sudan, Judge Murphy found the government in violation of the preliminary injunction. *Id.* On May 21, 2025, South Sudan's police spokesperson told the Associated Press that no deportees had arrived in South Sudan, and that if they do, they would be "redeported to their correct country" if found not to be South Sudanese.[15] The federal government has refused to return these individuals to the United States, and as of June 6, NPR reported that they were still being detained in shipping containers in Djibouti.[16] *See also DVD v. DHS*, 2025 WL 1495517.

DHS Continues to Detain Noncitizens at Regularly Scheduled Check-Ins, and Petitioner Was Re-Arrested and Re-Detained at his July 17, 2025 ICE Appointment

67. Consistent with the February 18, 2025 ICE directive, ICE is detaining noncitizens who appear at their scheduled check-ins at ICE Field Offices throughout the country, without advance notice that they will be detained.

68. In the first week of June 2025, news outlets across the country reported that ICE had arrested "hundreds" of noncitizens at scheduled check-ins.[17] On one day that week, the San

[15] Lindsay Whitehurst, et. al., *'Unquestionably in violation,': Judge says US government didn't follow court order on deportations,"* Associated Press (May 21, 2025), https://www.ap.org/news-highlights/spotlights/2025/unquestionably-in-violation-judge-says-us-government-didnt-follow-court-order-on-deportations/.

[16] Ximena Bustillo and Bill Chappell, *Deportees are being held in a converted shipping container in Djibouti, ICE says*, NPR (Jun. 6, 2025), https://www.npr.org/2025/06/06/g-s1-71039/migrants-djibouti-ice-shipping-container.

[17] *E.g.*, Julia Ainsley, Laura Strickler and Didi Martinez, *ICE arrests record number of immigrants in single day, including hundreds at scheduled appointments*, NBC News (June 4, 2025),

Francisco Chronicle reported that ICE arrested fifteen noncitizens at their scheduled check-ins at the San Francisco ICE Field Office.[18] ICE stated that the individuals who had been arrested at check-ins had final orders of removal. *Id.*

69. On July 17, 2025, Petitioner reported to the ICE office located in Eugene, Oregon in compliance with the Order of Supervision. During this reporting, he was arrested and detained by ICE, and subsequently transferred to Tacoma, Washington for detention. At the Tacoma detention center, Petitioner was given a Notice of Revocation of Release that was signed by Deputy Field Office Director Erik K Johnson on July 17, 2025. The notice states that the decision to re-detain Petitioner "has been made based on a review of [his] case; [his] existing order of removal; and determination that there is a significant likelihood of [his] removal in the reasonably foreseeable future." The Notice does not explain any specific changes in circumstances relating to Petitioner that necessitated the re-detention of Petitioner, nor does it provide any information explaining how removal has become reasonably foreseeable at the present time.

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https://www.nbcnews.com/politics/national-security/ice-arrests-record-number-immigrants-single-day-rcna210817. *See also, e.g.,* Nidia Cavazos, *Immigrants at ICE check-ins detained, held in basement of federal building in Los Angeles, some overnight*, CBS News (June 7, 2025), https://www.cbsnews.com/news/immigrants-at-ice-check-ins-detained-and-held-in-basement-of-federal-building-in-los-angeles/; Sarah Whites-Koditschek, *ICE detains immigrants during scheduled meetings in Birmingham: 'False hope,'* AL.com (June 5, 2025), https://www.al.com/news/2025/06/ice-detains-immigrants-during-scheduled-meetings-in-birmingham.html; Billal Rahman, *ICE Arrests Multiple People in Chicago After Tricking Them to Turn Up*, Newsweek (June 5, 2025), https://www.newsweek.com/ice-arrests-multiple-people-chicago-after-tricking-them-turn-2081246; *Armando Garcia, 'Have mercy': Families plead as migrants arrested at routine DHS check-ins*, ABC News (June 6, 2025), https://abcnews.go.com/US/mercy-families-plead-migrants-arrested-routine-dhs-check/story?id=122528525.

[18] Jessica Flores, *ICE arrests 15 people, including 3-year-old child, in San Francisco, advocates say*, San Francisco Chronicle (June 5, 2025), https://www.sfchronicle.com/bayarea/article/ice-arrests-sf-immigration-trump-20362755.php.

70. On information and belief, Respondents applied their blanket, categorical policy to Petitioner, revoke his release, take him into physical custody, removed him from Oregon, and transferred him to the Northwest Processing Center in Tacoma, Washington to re-detain him.

71. On information and belief, Respondents have not obtained a valid travel document to deport Petitioner to Iran for the past four years since his removal order became final, and at the present time, Respondents have no travel document in their possession, which is necessary to deport Petitioner to Iran. Without a valid travel document, it is not reasonably foreseeable to actually remove him to Iran at the present time.

72. On information and belief, Respondents made the decision to re-detain Petitioner by applying their blanket detention policy without due consideration to particular circumstances and without conducting individualized determination relating to any changes in circumstances since his release from custody.

73. Based on the February 18, 2025 ICE directive, the March 30, 2025 DHS policy memo, and extensive reports of the detention and removal of similarly-situated noncitizens, Petitioner, detained in ICE custody, is currently living in near-paralyzing fear that ICE will remove him to a third country where he would have no family ties and would be at direct risk of torture. Then from that country, he will be deported to Iran.

74. Petitioner's fear that he could be subjected to chain refoulement is objectively reasonable as the New York Times recently reported that U.S. State Department employees were instructed to stop noting in annual human rights reports whether a nation had violated its obligations not to send anyone "to a country where they would face torture or persecution."[19]

[19] Carol Rosenberg, *Trump's Ambition Collides With Law on Sending Migrants to Dangerous Countries*, New York Times (Jun. 6, 2025), https://www.nytimes.com/2025/06/06/us/politics/trump-deportations-migrants.html.

PETITIONER MAY NOT BE REMOVED TO A COUNTRY OTHER THAN IRAN WITHOUT ADEQUATE NOTICE AND AN OPPORTUNITY TO APPLY FOR FEAR-BASED RELIEF

75. The DHS may not remove Petitioner to any other country except Iran, the country to which he was ordered removed by the Immigration Judge in the removal order.

76. In order to remove Petitioner to a country other than Iran, Respondents must designate another country of removal. *See* 8 U.S.C. § 1231(b); *Himri*, 378 F.3d at 939. To comport with the requirements of due process, Respondents must provide Petitioner with meaningful notice of the identity of the third country. *See Andriasian*, 180 F.3d at 1041.

77. In Petitioner's case, no countries meet the definitions for alternative countries of removal set forth in 8 U.S.C. §§ 1231(b)(2)(A), 1231(b)(2)(D), 1231(b)(2)(E)(i)-(vi). Therefore, in order for the DHS to remove Petitioner to a country other than Iran, "at the time the government proposes" a third country for removal, it must prove, with evidence, that the country "will accept" him into that country. *See Himri*, 378 F.3d at 939; 8 U.S.C. § 1231(b)(2)(E)(vii). This must happen in reopened removal proceedings so that the IJ can designate the country of removal. *See Himri*, 378 F.3d at 939.

After the DHS has notified Petitioner of the third country and demonstrated that the country "will accept" him, he must be provided the opportunity to present a claim for deferral of removal as to that country under the Convention Against Torture. *See Jama*, 543 U.S. at 348 (explaining that for noncitizens who face mistreatment in a country designated under § 1231(b)(2), they have the remedy of an "individualized determination" under CAT). Because CAT is a country-specific form of relief, Petitioner can only apply for CAT relief to a designated country. *See* 8 C.F.R. § 1208.16(c)(3) (defining CAT relief in relation to "the proposed country of removal"); *She*, 629 F.3d at 965 (explaining that a noncitizen "is not entitled

to adjudication of an application for withholding of removal to a country that nobody is trying to send them to"); *see also DVD*, 2025 WL 1732103, at *7 ("Without an applicable order of removal, individuals have no way to raise their claims under the Convention.") (Sotomayor, J., dissenting from order granting a stay of the preliminary injunction).

78. In Petitioner's case, this means that his Section 240 proceedings must be reopened so that he may present his CAT case to the IJ, and so he may seek administrative and judicial review. *See* 8 U.S.C. §§ 1229a, 1252(a); 8 C.F.R. §§ 1003.6(a), 1240.15. As Justice Sotomayor explained, the Government's view that "once a noncitizen has been found removable, he can effectively be removed anywhere at any time would render meaningless the countless statutory and regulatory provisions providing for notice and a hearing. *DVD*, 2025 WL 1732103, at *8 (collecting and citing relevant statutory and regulatory provisions) (Sotomayor, J., dissenting). This is likewise required as a matter of due process. *See DVD*, 2025 WL 1732103, at *9 ("Due process requires reasonable notice and an opportunity to be heard.") ("Plaintiffs merely seek access to notice and process, so that, in the event the Executive makes a determination in their case, they learn about it in time to seek an immigration judge's review. The Fifth Amendment *unambiguously guarantees that right*.") (Sotomayor, J., dissenting); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019) (finding that removal proceedings "shall be reopened and a hearing shall be held before the immigration judge so that petitioner may apply for relief from removal" as to a country that had not been designated for removal in the noncitizen's prior proceedings); *Sadychov v. Holder*, 565 F. App'x 648, 651 (9th Cir. 2014) (holding that should a new country of removal be designated, "the agency must provide [the noncitizen] with notice and an opportunity to reopen his case for full adjudication of his claim of

withholding of removal from" the additional country).

PETITIONER'S REMOVAL IS NOT REASONABLY FORESEEABLE NOR IS HE A FLIGHT RISK OR A DANGER TO THE COMMUNITY, AND THUS, BOTH THE INA AND THE CONSTITUTION PROHIBIT HIS RE-DETENTION

79. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3rd 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. In "our society, liberty is the norm," and detention is the "carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

80. For individuals like Petitioner, who were ordered removed years ago, any current detention would purportedly be pursuant to 8 U.S.C. § 1231(a)(6), which authorizes detention for individuals beyond the ninety-day removal period in 8 U.S.C. § 1231(a)(2). But 8 U.S.C. § 1231(a)(6), only authorizes detention for "a period reasonably necessary to secure removal." *Zadvydas*, 533 U.S at 699. "Thus, if removal is not reasonably foreseeable . . . continued detention [is] unreasonable and no longer authorized by statute." *Id.* at 699-700.

81. Here, given the due process clause, the INA, FARRA, and its implementing regulations, Petitioner's removal is not reasonably foreseeable. *See* 8 U.S.C. § 1231(b)(2)(E); 8 U.S.C. § 1231(b)(3)(A); *Himri*, 378 F.3d at 939; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Petitioner's removal proceedings concluded in March 2021. Since entry of Petitioner's removal order in March 2021, ICE has attempted for more than four years to remove him to Iran but has been unable to do so. To date, the government has not obtained the necessary

travel document to remove Petitioner to Iran, nor has the government proven that a third country will accept him. Nor has the government provided Petitioner with an opportunity to present a claim under the Convention Against Torture as to that country, a process which cannot begin until an additional removal country is properly designated. *See id.* These multi-step processes, which include administrative and judicial appellate review, are expected to take, at a minimum, a year to complete, and could take several years. *See* 8 U.S.C. §§ 1101(a)(47)(B), 1252(a); 8 C.F.R. §§ 1003.6(a), 1240.15. During the past several months, in instances where the federal government has re-detained individuals—purportedly to remove them a third country—the government has not made a showing that those individuals can be removed to a third country. *Tadros v. Noem*s, Case No. 25CV4108 (EP), 2025 WL 1678501 (D.N.J., June 13, 2025). They have languished in detention in the meantime. *See id.*

82. Moreover, because immigration detention is civil detention, it must "bear [a] reasonable relation to the purpose for which the individual was committed," *Zadvydas*, 533 U.S. at 690, and not be excessive in relation to that purpose. *Salerno*, 481 U.S. at 747. The Supreme Court has articulated that there are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See id.*[20] As such, Petitioner's detention would need to serve those purposes and not be excessive in relation to those purposes. Petitioner's conduct over the more than four years since his release proves that his detention would be without purpose.

[20] Petitioner also acknowledges that the government may detain noncitizens for the brief period necessary to lawfully execute a removal order.

83. Based on his prior history of attending his ICE check-ins and complying with the terms of his release, his track record of the past four years, and his long residence in the U.S. and his family ties in the local community, Petitioner is not a flight risk.

84. Petitioner is also not a danger to the community. As an initial matter, he has not been arrested or had any problems with law enforcement during the past over-four years since he was released from custody. He has not engaged in any conduct that poses any risk to the community.

85. In fact, prior to Petitioner's recent detention, ICE took off the ankle monitoring device placed on his ankle after he was released from their custody. This is further evidence that ICE has neither considered him as a flight risk, nor as a danger to the community.

86. Petitioner's conduct during the last four years proves that he is neither a flight risk nor a danger, and that any civil detention that occurs while Petitioner contests any removal to a third country would be illegitimate and unconstitutional, as it would bear no relationship to the two purposes immigration detention is meant to serve. *See Jones v. Blanas*, 393 F.3d 918, 933-34 (9th Cir. 2004), *cert. denied*, 546 U.S. 820 (2005) ("[A] civil detainee awaiting adjudication is entitled to conditions of confinement that are not punitive…[and] a restriction is 'punitive' where it is intended to punish, or where it is 'excessive in relation to [its non-punitive] purpose.'"); *see also Enamorado v. Kaiser*, 2025 WL 1382859, at * 2 (N.D. Cal. May 12, 2025) (temporarily enjoining the government from arresting noncitizen petitioner where there was nothing to "suggest that [the petitioner] is unlikely to appear for any scheduled immigration related proceedings, nor does [the petitioner] appear to pose any risk to the public").

IF PETITIONER'S REMOVAL PROCEEDINGS ARE REOPENED, PETITIONER WOULD BE ENTITLED TO A HEARING IN FRONT OF A NEUTRAL

ADJUDICATOR ON WHETHER THE CURRENT CONDITIONS OF HIS RELEASE SHOULD BE MODIFIED

87. In the event that Petitioner's removal proceedings are reopened, any purported statutory authority to detain Petitioner would be pursuant to 8 U.S.C. § 1226(c). As his conduct demonstrates, he is neither a flight risk, nor is he a danger to the community.

88. As a result, were Petitioner's removal proceedings reopened, due process would require that he not be re-detained absent a hearing, with adequate notice, at which a neutral adjudicator could determine whether the government can prove by clear and convincing evidence that his current release conditions should be modified. *See Ortega*, 415 F. Supp. 3d at 969 (enjoining the re-arrest of Petitioner absent a hearing); *see also Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055-56, 1057-58 (N.D. Cal. 2021) (enjoining the government from re-arresting petitioner absent a hearing and holding that the government bears the burden by clear and convincing evidence); *Romero v. Kaiser*, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022) (same); *Diaz v. Kaiser*, 2025 WL 1676854, at * 4 (N.D. Cal. June 14, 2025) (same).

CAUSES OF ACTION

COUNT ONE
Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Arbitrary & Capricious

89. The allegations in the above-mentioned paragraphs are realleged and incorporated herein.

90. Under the APA, a court shall "hold unlawful and set aside agency action" that is arbitrary and capricious. 5 U.S.C. § 706(2)(A).

91. An action is arbitrary and capricious if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the

evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

92. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

93. By choosing to categorically re-arrest and re-detain Petitioner who fully complied with the conditions of release, Respondents failed to explain that their decision to re-arrest and re-detain Petitioner has a rational connection to the individualized facts in his case. There have been no changes to the facts that create exceptional circumstances to justify his detention; in fact, Petitioner has already been released for more than four years, showing that Respondents do not consider him to be a danger to the community or a priority for removal. During these four years since his release, he has not engaged in any criminal conduct, nor has he failed to comply with the conditions of his release. No rational connection exists between the re-detention and the facts surrounding Petitioner's individualized circumstances.

COUNT TWO

Violation of Fifth Amendment Due Process Clause, the INA, FARRA, and Implementing Regulations and the Administrative Procedure Act

94. The allegations in the above-mentioned paragraphs are realleged and incorporated herein.

95. The INA, FARRA, and implementing regulations, and the Fifth Amendment of the United States Constitution mandate meaningful notice and opportunity to present a fear-

based claim to an Immigration Judge before the DHS can deport an individual from the United States.

96. In order to effectuate the removal of Petitioner to a third county, Respondents must reopen Petitioner's removal proceedings, provide evidence that a third country will accept Petitioner, and allow him to present a claim under the Convention Against Torture as to that country. *See* 8 U.S.C. § 1231(b)(2)(E); 8 C.F.R. §§ 208.16(c)(4), 208.17(a); *Jama*, 543 U.S. at 348; *Himri*, 378 F.3d at 939; *Andriasian*, 180 F.3d at 1041; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Petitioner is also entitled to appeal any decision on removability and application for CAT relief to the Board of Immigration Appeals and the Circuit Court of Appeals. *See* 8 U.S.C. §§ 1101(a)(47)(B), 1252(a); 8 C.F.R. §§ 1003.6(a), 1240.15.

COUNT THREE

Violation of the Fifth Amendment Due Process Clause and Violation of the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6)

97. The allegations in the above-mentioned paragraphs are realleged and incorporated herein.

98. Respondents' re-detention of Petitioner violates his rights guaranteed by the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA.

99. "If removal is not reasonably foreseeable"—as is the case here—"detention is unreasonable and no longer authorized by statute." *See Zadvydas*, 533 U.S. at 682 (citing 8 U.S.C. § 1231(a)(6)). At the present time, Respondents do not have in their possession the requisite travel document to deport Petitioner to Iran despite having failed to obtain such document during the past four years. As a result, Respondents will not be able to deport Petitioner to Iran in the reasonably foreseeable manner.

100. Given the procedural steps that would need to take place to effectuate

a removal of Petitioner to a third country—*see* Count Two, *supra*—Petitioner's removal is not reasonably foreseeable. Moreover, civil detention is warranted only to mitigate flight risk or prevent danger to the community. *See id.* Petitioner's conduct during the more than four years since his release from custody overwhelmingly confirms neither purpose would be met here if Petitioner were to be continuously detained. As such, Respondents have no authority to detain Petitioner until his removal proceedings are reopened.

101. In the event his removal proceedings are reopened, due process prohibits Respondents from re-detaining Petitioner absent a hearing at which a neutral adjudicator could determine whether the government can prove by clear and convincing evidence that Petitioner's current release conditions should be modified. *See Ortega*, 415 F. Supp. 3d at 969; *Jorge M.F.*, 534 F. Supp. 3d at 1055-56, 1057-58 (N.D. Cal. 2021).

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests this Court grant the following relief:

a. Exercise jurisdiction over this matter;

b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

c. Issue a Writ of Habeas Corpus ordering Respondents to:

i. Release Petitioner from custody;

ii. Not transfer Petitioner from this district to another location without the court's approval before this proceeding is concluded;

d. Enjoin Respondents from designating a third country for Petitioner's removal without

reopening Petitioner's removal proceedings so that an Immigration Judge can make the designation in the first instance and adjudicate Petitioner's application under the Convention Against Torture as to that country, if any;

e. Declare that Respondents may not designate a third country for Petitioner's removal without reopening Petitioner's removal proceedings so that an Immigration Judge can make the designation in the first instance and adjudicate Petitioner's application under the Convention Against Torture as to that country, if any;

f. Award reasonable costs and attorney fees under the Equal Access to Justice Act, and on any other basis justified under law; and

g. Grant further relief as the Court deems just and proper.

Dated: October 14, 2025.

/s/ *Kelly Vomacka*

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VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner 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 14, 2025

/s/ *Benjamin Wang*

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