

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IVAN RAD,

Petitioner,

vs.

PAMELA BONDI, Attorney General of
the United States; KRISTI NOEM,
Secretary, United States Department of
Homeland Security; CAMMILLA
WAMSLEY, Seattle Field Office
Director, United States Citizenship and
Immigration Services; BRUCE SCOTT,
Warden of Immigration Detention
Facility; and the United States
Immigration and Customs Enforcement,


Respondents.

) No.

**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241
AND REQUEST FOR INJUNCTIVE
RELIEF**

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Ivan Rad
- (b) Other names used:
2. Place of confinement:
 - (a) Northwest Immigration Processing Center (NWIPC)
 - (b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a contractual arrangement with my custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.
- (c) Case number or numbers: My A# is 

1 3. I am currently being held on orders by federal authorities: United States
2 Immigration and Customs Enforcement.


3 4. I am currently being held on an immigration charge.

4 **Decision or Action You Are Challenging**

5 5. What are you challenging in this petition: immigration detention.

6 6. Provide more information about the decision or action you are challenging:

7 (a) Name and location of the agency or court: United States Immigration and
8 Customs Enforcement

9 (b) Docket number, case number, or opinion number: My A# is 

10 (c) Decision or action you are challenging: I was taken into custody by ICE
11 on February 14, 2025. My order of removal became final on March 12, 2025. I have
12 been detained in ICE custody for 7 months following my final deportation order.

13 **Your Earlier Challenges of the Decision or Action**

14 7-9. First, second, and third appeals: None

15 10. Motion under 28 U.S.C. § 2255: N/A

16 11. Appeals of immigration proceedings:

17 Does this case concern immigration proceedings? No

18 (a) Date you were taken into immigration custody: February 14, 2025

19 (b) Date of the removal or reinstatement order: March 12, 2025

20 (c) Did you file an appeal with the Board of Immigration Appeals? No

21 (d) Did you appeal the decision to the United States Court of Appeals? No

22 12. Other appeals:

23 Other than the appeals listed above, have you filed any other petition,
24 application, or motion about the issues raised in this petition? No.

1 **Grounds for Your Challenge in This Petition**

2 **I. Introduction**

3 Ivan Rad is presently detained at the Northwest ICE Processing Center
4 (NWIPC). He has been held in immigration custody for 7 months. Removal to Ukraine
5 is not reasonably foreseeable. His continued detention is therefore in violation of
6 *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). He seeks (a) release; (b) an order
7 preventing removal to a third country without notice and meaningful opportunity to
8 respond in compliance with the statute and due process in reopened removal
9 proceedings; and (c) an order barring removal to any third country pursuant to
10 Respondents' punitive removal policy.

11 **II. Jurisdiction and Venue**

12 This case arises under the Constitution of the United States, the Immigration and
13 Nationality Act ("INA"), 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedures
14 Act ("APA"), 5 U.S.C. §§ 500–596, 701–706.

15 This Court has subject matter jurisdiction under 28 U.S.C. § 2241, *et seq.*
16 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346 (United States
17 as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Respondents have waived
18 sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

19 The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et*
20 *seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act, 28
21 U.S.C. § 1651; the Due Process Clause of the Fifth Amendment; and the Court's
22 inherent equitable powers.

23 Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because
24 Respondents are agencies or officers of agencies of the United States; Respondents
25 Wamsley and Scott reside in this district; and Petitioner is detained in this district.
26

1 Venue is further proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the
2 events or omissions giving rise to Petitioner’s claims occurred in this district.

3 Because Petitioner is seeking relief related only to his custody status, which is
4 not inconsistent with an order of deportation, exhaustion of administrative remedies, if
5 any, is not required.

6 **III. Parties**

7 Ivan Rad is a citizen of Ukraine. He has a final order of removal to Ukraine.
8 Petitioner is detained in the control and custody of Respondents at NWIPC. As such,
9 Petitioner is a resident of Tacoma, Washington.

10 Respondent Pamela Bondi is the Attorney General of the United States. In this
11 capacity, Respondent Bondi is the legal custodian of Petitioner. Respondent Bondi is
12 sued in her official capacity.

13 Respondent Kristi Noem is the Secretary of the Department of Homeland
14 Security (“DHS”). In this capacity, Respondent Noem is the legal custodian of
15 Petitioner. Respondent Noem is sued in her official capacity.

16 Respondent Cammilla Wamsley is the Field Office Director for ICE
17 Enforcement and Removal Operations (“ERO”) in Seattle, Washington. As the ERO
18 Seattle Field Office Director, she is Petitioner’s immediate custodian, responsible for
19 his detention at NWIPC, and is the person with the authority to authorize detention or
20 release. Respondent Wamsley is sued in her official capacity.

21 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
22 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant
23 to a contract with ICE to detain noncitizens. Mr. Scott is sued in his official capacity as
24 the Warden of a federal detention facility. *See Juarez v. Asher*, No. C20-700, 2021 WL
25 1946222, at *3–5 (W.D. Wash. May 14, 2021).

1 Respondent United States Immigration and Customs Enforcement (hereinafter
2 ICE) is the federal executive agency responsible for the enforcement of immigration
3 laws, including the arrest, detention, and removal of noncitizens. Respondent ICE is a
4 legal custodian of Petitioner.

5 **IV. Background**

6 Ivan Rad was born in 1974 in the Ukrainian Soviet Socialist Republic. He is a
7 Ukrainian citizen. Upon information and belief, Mr. Rad came to the U.S. on December
8 11, 2023, under the “Uniting for Ukraine” (U4U) program. Under the program, the U.S.
9 admitted thousands of Ukrainians and others fleeing Russian aggression. After arriving
10 in Seattle, Washington, Mr. Rad moved to Vancouver, WA where he resided with an
11 acquaintance.

12 Upon information and belief, Mr. Rad received work authorization under the
13 U4U program. He began working for Prime Interiors Inc. in May 2024. He was laid off
14 along with other employees in October due to lack of work.

15 An immigration judge ordered Mr. Rad’s removal to Ukraine on March 12,
16 2025. Upon information and belief, Mr. Rad has two active criminal cases out of Clark
17 County, WA.

18 **V. Facts Pertaining to Continued Detention**

19 Petitioner cannot presently be returned to Ukraine because Ukraine is not
20 currently accepting removals. Removal to Ukraine is not reasonably foreseeable. ICE
21 has not obtained a travel document from Ukraine for Petitioner, nor has Ukraine agreed
22 to accept Petitioner. Petitioner has not been able to communicate effectively with ICE
23 agents as he does not speak English. ICE has not communicated with Petitioner for four
24 months and Petitioner does not know whether ICE has made any efforts to obtain travel
25 documents. Petitioner has called the Ukrainian Consulate which informed him that they
26 have no information about him and his case.

1 Petitioner suffers from bipolar disorder, a qualified mood disorder. His medical
2 certificates indicate his diagnoses and prescription. ICE has confiscated all of
3 Petitioner's travel documents and medical certificates. He does not have a way to
4 communicate with the agents or translate his medical records to receive his medication.

5 **VI. The Legal Framework for Third Country Removals**

6 The immigration laws delineate the proper procedures by which a country may
7 be designated for removal. *See* 8 U.S.C. § 1231(b). These procedures move in
8 incremental steps.

9 First, an individual with a removal order may designate the country to which
10 they want to be removed, and the government *shall* remove the individual to that
11 country. 8 U.S.C. § 1231(b)(2)(A). The government may disregard that designation if
12 (1) the individual fails to designate a country promptly; (2) the government of that
13 country does not inform the U.S. government finally, within 30 days after the date the
14 U.S. government first inquires, whether the government will accept the individual into
15 that country; (3) the government of the country is not willing to accept the individual
16 into the country; or (4) the government decides that removing the individual to that
17 country is prejudicial to the United States. 8 U.S.C. § 1231(b)(2)(C).

18 Second, if the individual is not removed to the country they designated under
19 § 1231(b)(2)(A), the government shall remove the individual to the country of which
20 the individual is a "subject, national, or citizen" unless the government of that country
21 does not inform the U.S. government or the individual within 30 days after first inquiry
22 or within another reasonable period of time whether the government will accept the
23 individual into the country or the country is not willing to accept the individual into the
24 country. 8 U.S.C. § 1231(b)(2)(D).

25 Third, if the individual is not removed to either the country of their designation
26 or the country of which they are a subject, national, or citizen, then the government

1 shall remove them to any of the following options: (1) the country from which the
2 individual was admitted to the United States; (2) the country in which is located the
3 foreign port from which the individual left for the United States or for a foreign
4 territory contiguous to the United States; (3) the country in which the individual resided
5 before the individual entered the United States and from which the individual entered
6 the United States; (4) the country in which the individual was born; or (5) the country in
7 which the individual's birthplace is located when the individual was ordered removed.

8 8 U.S.C. § 1231(b)(2)(E). *Only* “[i]f impracticable, inadvisable, or impossible” to
9 remove the individual to any of these countries may the government remove the
10 individual to “another country whose government will accept [them] into that country.”
11 8 U.S.C. § 1231(b)(2)(E)(vii).

12 Notwithstanding any of these procedures, the statute prohibits removal to a third
13 country where a person may be persecuted or tortured, a form of protection known as
14 withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The government “may not
15 remove [a noncitizen] to a country if the Attorney General decides that the
16 [noncitizen’s] life or freedom would be threatened in that country because of the
17 [noncitizen’s] race, religion, nationality, membership in a particular social group, or
18 political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
19 a mandatory protection.

20 Similarly, Congress codified protections enshrined in the Convention Against
21 Torture (CAT) prohibiting the government from removing a person to a country where
22 they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998
23 (“FARRA”), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8
24 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite,
25 or otherwise effect the involuntary return of any person to a country in which there are
26 substantial grounds for believing the person would be in danger of being subjected to

1 torture, regardless of whether the person is physically present in the United States.”); 28
2 C.F.R. § 200.1; §§ 208.16–208.18, 1208.16–1208.18. CAT protection is also
3 mandatory.

4 To comport with the requirements of due process, the government must provide
5 notice of the third country removal and an opportunity to respond. Due process requires
6 “written notice of the country being designated” and “the statutory basis for the
7 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F.
8 Supp. 3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*
9 *Sec.*, No. 25-CV-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All
10 removals to third countries, *i.e.*, removal to a country other than the country or
11 countries designated during immigration proceedings as the country of removal on the
12 non-citizen’s order of removal, must be preceded by written notice to both the non-
13 citizen and the non-citizen’s counsel in a language the non-citizen can understand.”
14 (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process
15 requires notice to the noncitizen of the right to apply for asylum and withholding to the
16 country where they will be removed). The government must be able to show evidence
17 that the third country will accept the individual into that country. *See Himri v. Ashcroft*,
18 378 F.3d 932, 939 (9th Cir. 2004) (“at the time the government proposes a country of
19 removal pursuant to § 1231(b)(2)(E)(vii), the government must be able to show that the
20 proposed country *will* accept the [individual]”).

21 Due process also demands that the government “ask the noncitizen whether he or
22 she fears persecution or harm upon removal to the designated country and memorialize
23 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
24 necessary information from the noncitizen to comply with section 1231(b)(3) and
25 avoids [a dispute about what the officer and noncitizen said].” *Aden*, 409 F. Supp. 3d at
26 1019; *cf. D.V.D.*, 2025 WL 1453640, at *1 (“Following notice, the individual must be

1 given a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim
2 for CAT protection prior to removal.”) (emphasis omitted).

3 If the noncitizen claims fear, measures must be taken to ensure that the
4 noncitizen can seek asylum, withholding, and relief under CAT before an immigration
5 judge in reopened removal proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring
6 the government to move to reopen the noncitizen’s immigration proceedings if the
7 individual demonstrates “reasonable fear” and to provide “a meaningful opportunity,
8 and a minimum of fifteen days, for the non-citizen to seek reopening of their
9 immigration proceedings” if the noncitizen is found to not have demonstrated
10 “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice and time for a
11 respondent to file a motion to reopen and seek relief).

12 Finally, notice of the country to which the noncitizen will be removed must not
13 be “last minute” because that would deprive an individual of a meaningful opportunity
14 to apply for fear-based protection from removal. *Andriasian*, 180 F.3d at 1041. They
15 must have time to prepare and present relevant arguments and evidence and to seek
16 reopening of their removal case.

17 VII. Facts Pertaining to Punitive Banishment to Third Countries

18 Since January 2025, Respondents have developed and implemented a policy and
19 practice of removing individuals to third countries, without first following the
20 procedures in the INA for designation and removal to a third country and without
21 providing fair notice and an opportunity to contest the removal in immigration court.

22 Respondents reportedly have negotiated with at least 58 countries to accept
23 deportees from other nations. On June 25, 2025, the *New York Times* reported that
24 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
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1 Rwanda—had agreed to accept deportees who are not their own citizens.¹ Since then,
2 ICE has carried out highly publicized third country deportations to South Sudan and
3 Eswatini. It also attempted—and completed—an “end-run” around the protections of
4 the Convention Against Torture by deporting a group of migrants to Ghana, which sent
5 them on to their countries of citizenship despite fears of persecution.

6 Punishment and deterrence appear to be the point of the Administration’s third
7 country removal scheme. The Administration has reportedly negotiated with countries
8 to have deportees imprisoned in prisons, camps, or other facilities. The government
9 paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more than 200
10 deported Venezuelans in a maximum-security prison notorious for gross human rights
11 abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds of
12 deportees from countries in Africa and Central Asia and imprisoned them in hotels, a
13 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men,
14 including one pre-1995 Vietnamese refugee, to South Sudan. The men have been
15 detained incommunicado ever since. On July 15, 2025, ICE deported five men to the
16 tiny African nation of Eswatini, including one man from Vietnam, where they are
17 reportedly being held in solitary confinement.

18 The Administration has hand-selected countries known for human rights abuses
19 and instability for these third country deportation agreements to frighten people in the
20 United States into self-deporting or to accept removal to their home countries. Indeed,
21 conditions in South Sudan are so extreme that the U.S. State Department website warns
22 Americans not to travel there, and if they do, to prepare their will, make funeral
23 arrangements, and appoint a hostage-taker negotiator first.

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26 ¹ Edward Wong, et al., *Inside the Global Deal-Making Behind Trump’s Mass
Deportations*, N.Y. Times (June 25, 2025), [https://www.nytimes.com/2025/06/25/us/
politics/trump-immigrants-deportations.html](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html) [<https://perma.cc/64G9-XYGB>].

1 On July 9, 2025, ICE issued a new memo to staff instructing that when seeking
2 to remove an individual to a country not designated on that person's removal order, that
3 ICE may deport that person without any procedures for notice or an opportunity to be
4 heard if the State Department confirms that it has received diplomatic assurances that
5 individuals will not be persecuted or tortured. If no diplomatic assurances are received,
6 the ICE memo instructs officers to serve on the individual a Notice of Removal that
7 includes the intended country of removal. It instructs officers not to ask whether the
8 individual is afraid of removal to that country. It states that officers should "generally
9 wait at least 24 hours following service of the Notice of Removal before effectuating
10 removal" but that "[i]n exigent circumstances, [ICE] may execute a removal order six
11 (6) or more hours after service of the Notice of Removal as long as the [noncitizen] is
12 provided reasonable means and opportunity to speak with an attorney prior to removal."

13 The memo further instructs that if the noncitizen "does not affirmatively state a
14 fear of persecution or torture if removed to the country of removal listed on the Notice
15 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
16 on the notice." If the noncitizen "does affirmatively state a fear if removed to the
17 country of removal," then ICE will refer the case to U.S. Citizenship and Immigration
18 Services ("USCIS") for a screening for eligibility for withholding of removal and
19 protection under the Convention Against Torture. "USCIS will generally screen within
20 24 hours." If USCIS determines that the noncitizen does not meet the standard, the
21 individual will be removed. If USCIS determines that the noncitizen has met the
22 standard, then the policy directs ICE to either move to reopen removal proceedings "for
23 the sole purpose of determining eligibility for [withholding of removal protection] and
24 CAT" or designate another country for removal.

25 The eight men who were ultimately deported to South Sudan all claimed fear of
26 removal to South Sudan. None of those men were provided a fear screening by a

1 USCIS officer or otherwise, despite the fact that they were held by ICE for six weeks
2 on a U.S. military base in Djibouti before their final removal to South Sudan.

3 **VIII. The Law Governing Punitive Removal Practices**

4 It is bedrock law that the U.S. government may not impose or inflict an infamous
5 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court
6 ruled that while deportation itself was not a punishment, the government could not
7 attach punitive conditions to deportation—in that case, imprisonment at hard labor—
8 absent a criminal charge, trial in a court of law, and the protections of the Fifth, Sixth,
9 and Eighth Amendments. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

10 Importantly, the Court drew a distinction between deportation, which the Court
11 reasoned is “not a ‘banishment,’ in the sense in which that word is often applied to the
12 expulsion of a citizen from his country by way of punishment,” and government actions
13 aimed at punishment, such as imprisonment at hard labor in addition to deportation. *Id.*
14 at 236. The Court explained that deportation “is but a method of enforcing the return to
15 his own country of [a non-citizen] who has not complied with the conditions upon the
16 performance of which the government of the nation, acting within its constitutional
17 authority and through the proper departments, has determined that his continuing to
18 reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730
19 (1893)). But the Court admonished that the government may not “declare unlawful
20 residence within the country to be an infamous crime, punishable by deprivation of
21 liberty and property . . . unless provision were made that the fact of guilt should first be
22 established by a judicial trial.” *Id.* at 237.

23 Deportation of individuals to third countries to be imprisoned or harmed is
24 unquestionably punishment.

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1 **Grounds for Relief**

2 **Ground One: Petitioner’s Continued Detention in Immigration Custody is**
3 **Unlawful Because There Is No Significant Likelihood that Petitioner Will Be**
4 **Removed in the Reasonably Foreseeable Future.**

5 The allegations in the above paragraphs are realleged and incorporated herein.

6 Petitioner’s present detention is purportedly authorized under 8 U.S.C. § 1231.

7 Detention of non-citizens who have been ordered removed is mandatory during the so-
8 called 90-day “removal period.” 8 U.S.C. § 1231(a)(1)(A). This period begins, as
9 relevant here, on the “date the order of removal becomes administratively final.” 8
10 U.S.C. § 1231(a)(1)(B)(i). Because Petitioner’s removal order became final on March
11 12, 2025, the removal period has expired and detention is no longer required under
12 8 U.S.C. § 1231.

13 Not only is detention no longer required, it is no longer allowed under the facts
14 of this case. Given the “serious constitutional threat” the *Zadvydas* Court believed to be
15 posed by the indefinite detention of aliens who had been admitted to the country under
16 the Fifth Amendment’s Due Process Clause, 553 U.S. at 699, the Court interpreted 8
17 U.S.C. 1231(a)(6) to permit only detention related to the statute’s “basic purpose [of]
18 effectuating an alien’s removal[.]” *Id.* at 696-699. The Court further held that the
19 presumptive period during which the detention is reasonably necessary to effectuate an
20 alien’s removal is six months; after that, the alien is eligible for conditional release if he
21 can demonstrate that there is “no significant likelihood of removal in the reasonably
22 foreseeable future.” *Id.* at 701. After the “presumptively reasonable” period of six
23 months’ detention, when the noncitizen can “provide good reason to believe that there
24 is no significant likelihood of removal in the reasonably foreseeable future,” then “the
25 Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701.
26 “A petitioner’s total length of confinement need not be consecutive to reach the six-

1 month presumptively reasonable limit established in *Zadvydas*.” *Tang v. Bondi*,
2 No. 2:25-CV-01473-RAJ-TLF, 2025 WL 2637750, at *4 (W.D. Wash. Sept. 11, 2025).

3 Here, the government cannot rebut the conclusion that Petitioner’s continued
4 detention in ICE custody violates the Due Process Clause of the Fifth Amendment
5 under *Zadvydas*. See *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *28–
6 29 (W.D. Wash. Aug. 21, 2025) (granting preliminary injunction requiring release
7 under *Zadvydas*); *Tang*, dkt. 26 at 12 (same). The ongoing war has made removals to
8 Ukraine impossible. In fact, ICE has conceded that it cannot return people to Ukraine.
9 Because Ukraine is not accepting any individuals for removal, there is no likelihood of
10 removal in the foreseeable future.

11 **Ground Two: Violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention**
12 **Against Torture, Implementing Regulations, and the Administrative Procedure**
13 **Act**

13 The allegations in the above paragraphs are realleged and incorporated herein.

14 The Fifth Amendment, the INA, the CAT, and implementing regulations
15 mandate meaningful notice and opportunity to respond to any attempt to remove
16 Petitioner to a third country in reopened removal proceedings. They also require an
17 opportunity for Petitioner to make a fear-based claim against removal to a third country
18 in reopened removal proceedings. Respondents’ policy for third country removals
19 violates all of these laws because it directs ICE agents to remove individuals to third
20 countries without any notice or process *at all* where diplomatic assurances are received
21 and, where no diplomatic assurances are received, to provide flagrantly insufficient
22 notice (6–24 hours) and opportunity to respond, in violation of the statute, regulations,
23 and Fifth Amendment.

24 Prior to any third country removal, Petitioner must be provided with
25 constitutionally and statutorily compliant notice and an opportunity to respond and
26 contest that removal if he has a fear of persecution or torture in that country in reopened

1 removal proceedings. *See Nguyen*, 2025 WL 2419288, at *29 (granting preliminary
2 injunction against “removing Petitioner to a country other than [home country] without
3 notice and a meaningful opportunity to be heard in reopened removal proceedings with
4 a hearing before an immigration judge”).

5 **Ground Three: Punitive Third Country Banishment; Violation of Fifth and**
6 **Eighth Amendments**

7 The allegations in the above paragraphs are realleged and incorporated herein.

8 Under the Fifth Amendment to the U.S. Constitution, no person shall “be held to
9 answer for a capital, or otherwise infamous crime, unless on a presentment or
10 indictment of a Grand Jury;” “be subject for the same offence to be twice put in
11 jeopardy of life or limb;” or “be deprived of life, liberty, or property, without due
12 process of law.”

13 The Eighth Amendment provides that no “cruel and unusual punishments” may
14 be inflicted.

15 The U.S. Supreme Court long ago held that the government may not inflict upon
16 individuals an “infamous punishment” in addition to deportation as a penalty for an
17 immigration violation, absent criminal charges, a judicial trial, and attendant
18 constitutional protections. *Wong Wing*, 163 U.S. at 236–38.

19 The government has arranged for third countries to receive deportees and
20 imprison them on arrival, possibly indefinitely and often in abhorrent conditions. It has
21 selected countries notorious for human rights abuses and instability for third country
22 removal arrangements. It has targeted individuals with criminal convictions for third
23 country removals where they will be imprisoned and harmed and publicly broadcast
24 those removals to demonize and dehumanize the individuals subjected to these practices
25 and strike fear in the immigrant community to send a message of retribution and
26 deterrence.

1 Respondents' third country removal program is more than a publicity stunt. The
2 hundreds of individuals who have already been subjected to it have been banished in
3 foreign prisons upon arrival without charge and often without communication with the
4 outside world, including their families and lawyers. Respondents may not subject
5 Petitioner to its third country removal program designed to impose a severe punishment
6 on its subjects. *See id.* Such conduct "shocks the conscience" under Fifth Amendment
7 substantive due process, is cruel and unusual punishment, and may not be imposed
8 without charge and a judicial trial.

9 Respondents may not seek to remove Petitioner to a third country under their
10 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at *29
11 (granting preliminary injunction against "removing Petitioner to any country where he
12 is likely to face imprisonment upon arrival").

13 Prayer for Relief

14 Petitioner respectfully requests that this Court:

- 15 (a) Assume jurisdiction over this action;
- 16 (b) Order Respondents to immediately release Petitioner from custody;
- 17 (c) Order that Respondents may not remove or seek to remove Petitioner to a
18 third country without notice and meaningful opportunity to respond in compliance with
19 the statute and due process in reopened removal proceedings;
- 20 (d) Order that Respondents may not remove Petitioner to any third country
21 because Respondents' third country removal program seeks to impose unconstitutional
22 punishment on its subjects, including imprisonment and other forms of harm; and
- 23 (e) Order all other relief that the Court deems just and proper.

24 Verification Pursuant to LCR 100(e)

25 Counsel verifies that this petition is authorized by Petitioner. It does not
26 personally bear Petitioner's signature because of the significant difficulty for counsel in

1 meeting with Petitioner in person and because mailing the petition to Petitioner and
2 having it mailed back would cause delay that would only extend the period of his
3 unlawful detention. Counsel knows the facts asserted above or alleges them on
4 information and belief, based on information obtained from the government and/or
5 Petitioner.

6 DATED this 16th day of October 2025.

7 Respectfully submitted,

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9 *s/ Gregory Murphy*
10 Assistant Federal Public Defender
11 Attorney for Ivan Rad
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