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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FELIX DANIEL VEIGA,
Petitioner,
vs.


) No.

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

) 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.

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

- 1. (a) Full name: Felix Daniel Veiga
- (b) Other names used: Felix Daniel Veiga del Riego
- 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 originally ordered deported
11 on August 27, 2013.¹ Exhibit 1, Order of Removal. On March 5, 2014, I was placed on
12 an order of supervision by ICE. I was ordered by ICE to report in person on June 10,
13 2014. Exhibit 2, Order of Supervision. Since this order, I have reported as requested
14 and was taken into custody by ICE on May 30, 2025. I have been detained in ICE
15 custody for over five months.

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

17 7-9. First, second, and third appeals: None

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

19 11. Appeals of immigration proceedings:

20 Does this case concern immigration proceedings? Yes

21 (a) Date you were taken into immigration custody: May 30, 2025

22 (b) Date of the removal or reinstatement order: August 27, 2013

23
24 ¹ ICE's order of supervision states that the final order of removal occurred on August 1,
25 2011. Exhibit 2. This appears to be in error since it pre-dates the Notice to Appear,
26 which was issued July 10, 2013. Exhibit 3, Notice to Appear. On August 27, 2013, an
immigration judge ordered Mr. Veiga's removal pursuant to a motion for stipulated
removal; appeal was waived.

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

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

3 12. Other appeals: No.

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

5 **I. Introduction**

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

14 **II. Jurisdiction and Venue**

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

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

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

1 Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because
2 Respondents are agencies or officers of agencies of the United States; Respondents
3 Wamsley and Scott reside in this district; and Petitioner is detained in this district.
4 Venue is further proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the
5 events or omissions giving rise to Petitioner’s claims occurred in this district.

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

9 **III. Parties**

10 Felix Veiga is a citizen of Cuba. He has a final order of removal, with Cuba
11 designated as the country where Mr. Veiga is to be removed. Petitioner is detained in
12 the control and custody of Respondents at NWIPC. As such, Petitioner is a resident of
13 Tacoma, Washington.

14 Respondent Pamela Bondi is the Attorney General of the United States. In this
15 capacity, Respondent Bondi is the legal custodian of Petitioner. Respondent Bondi is
16 sued in her official capacity.

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

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

25 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
26 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant

1 to a contract with ICE to detain noncitizens. Mr. Scott is sued in his official capacity as
2 the Warden of a federal detention facility. *See Juarez v. Asher*, No. C20-700, 2021 WL
3 1946222, at *3–5 (W.D. Wash. May 14, 2021).

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

8 **IV. Background**

9 Mr. Veiga arrived in the United States in 2008. He flew from Havana, Cuba,² to
10 Miami, Florida, in 2008 through the Cuban Family Reunification Parole Program
11 (CFRPP).³ Exhibit 3; Exhibit 4, CFRPP Parole. On July 15, 2010, Mr. Veiga adjusted
12 his status to Lawful Permanent Residency. Exhibit 3. On August 23, 2011, Mr. Veiga
13 was convicted of Possession of Fifteen or More Unauthorized Access Devices in the
14

15 ² Mr. Veiga recalls flying from Holguin, Cuba, to Miami, Florida, but his visa says he
16 boarded in Havana, Cuba.

17 ³ “Created in 2007, the CFRP Program allows certain eligible U.S. citizens and lawful
18 permanent residents to apply for parole for their family members in Cuba. If granted
19 parole, these family members may come to the United States without waiting for their
20 immigrant visas to become available. After they are in the United States, CFRP
21 Program beneficiaries may apply for work authorization while they wait to apply for
22 lawful permanent resident status.” The Cuban Family Reunification Parole Program,
23 U.S. Citizenship and Immigration Services (Oct. 8, 2025),
24 [https://www.uscis.gov/humanitarian/humanitarian-parole/the-cuban-family-](https://www.uscis.gov/humanitarian/humanitarian-parole/the-cuban-family-reunification-parole-program)
25 [reunification-parole-program](https://www.uscis.gov/humanitarian/humanitarian-parole/the-cuban-family-reunification-parole-program) [<https://perma.cc/WX2E-QQDJ>]. “The CFRPP permits
26 Cuban beneficiaries of an approved I-130, Petition for Alien Relative, and who have not
yet received an immigrant visa, to be paroled into the U.S. The visa will have an
issuance and expiration date. Also, the bottom of the entry document may state, ‘Not a
Visa. Foil prepared at DHS request; Special Parole for Non Current Cuban IV
Beneficiaries.’” Food Stamp Program Noncitizen Guide, Department of Social
Services, State of California Health and Human Services Agency (Dec. 29, 2010),
https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2010/i-102_10.pdf
[<https://perma.cc/F9BH-6Z8P>].

1 Southern District of Georgia and was sentenced to 48 months in prison. Exhibit 3;
2 Exhibit 5, Judgment.

3 The federal conviction led to the filing of a Notice of Appear on July 10, 2013,
4 by the Department of Homeland Security (DHS). Exhibit 3. While he was still serving
5 his sentence, Mr. Veiga, through his counsel, stipulated to his removal. Exhibit 6,
6 Stipulation to Removal. This stipulation was accepted by an immigration judge on
7 August 27, 2013, who ordered Mr. Veiga's removal. Exhibit 1. Due to DHS's inability
8 to remove Mr. Veiga within the period prescribed by law, he was placed on an Order of
9 Supervision on March 5, 2014, and ordered to report to DHS on June 10, 2014, and as
10 directed. Exhibit 2. On May 28, 2014, Mr. Veiga was released from BOP custody to
11 begin his term of federal supervised release and also began complying with the terms of
12 his DHS order of supervision.

13 Over 10 years later, during a routine check-in on May 30, 2025, Mr. Veiga was
14 detained by ICE.

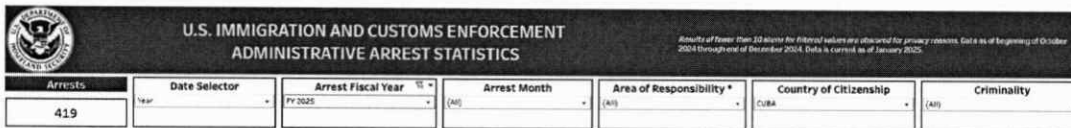
15 **V. Facts Pertaining to Continued Detention**

16 Petitioner cannot presently be returned to Cuba, because Cuba historically has
17 been extremely reluctant to accept individuals with criminal records.⁴ While political
18 developments in recent years have increased the number of Cubans deported, the
19
20
21

22 ⁴ Lizette Alvarez & Kristin Hussey, *Cubans Convicted in the U.S. Face New*
23 *Fears of Deportation*, N.Y. Times (Jan. 18, 2015)
24 [https://www.nytimes.com/2015/01/19/us/cubans-convicted-in-the-us-face-new-fears-of-](https://www.nytimes.com/2015/01/19/us/cubans-convicted-in-the-us-face-new-fears-of-deportation.html)
25 [deportation.html](https://www.nytimes.com/2015/01/19/us/cubans-convicted-in-the-us-face-new-fears-of-deportation.html) [<https://perma.cc/6ANE-23KJ>] (“Other countries also make it difficult
26 for the United States to deport convicted criminals, but Cuba is one of ‘very few’ that
block most deportation orders, Ms. Gonzalez said. Among the nations listed in 2011 as
‘recalcitrant,’ as immigration officials call them, are Cambodia, China, India, Iran and
Vietnam, and several in the Caribbean.”).

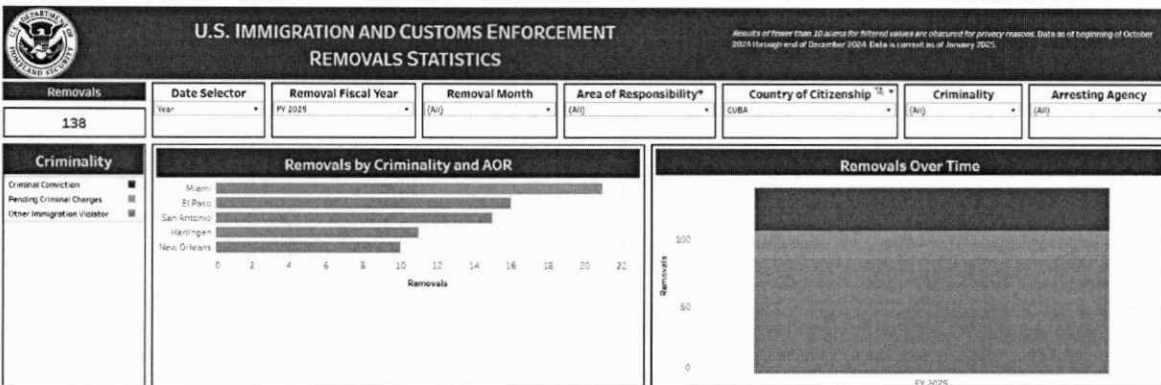
1 number of removals effected continues to remain miniscule compared to the number of
 2 outstanding removal orders.⁵

3 For fiscal year 2025, ICE reported the arrest of 419 Cuban citizens:



7 U.S. Immigration and Customs Enforcement Administrative Arrest Statistics,
 8 <http://www.ice.gov/statistics> [<https://perma.cc/X2AV-89FD>] (accessed October 24,
 9 2025).

10 Within the same fiscal year, only 138 Cubans were removed. Of these, only 32
 11 Cubans were listed as having criminal convictions:



18 *Id.* Removals have increased in the 2025 calendar year, but still are nowhere near the
 19 pace required to reasonably process the backlog of individuals with pending removal
 20 orders. In calendar year 2025, at least 643 Cuban citizens were removed to Cuba.

21 //
 22 //

24 ⁵ Lindsay Daniels, *The End of Special Treatment for Cubans in the U.S. Immigration*
 25 *System: Consequences and Solutions for Cubans with Final Orders of Removal*, 122
 26 Dick. L. R. 2, 707 (2018), <https://insight.dickinsonlaw.psu.edu/dlr/vol122/iss2/8/>
 [<https://perma.cc/G8DG-SETL>] (“There are at least 34,000 Cubans with final orders of
 removal in the United States, due in large part to criminal convictions.”).

1 **Deportation Data Project** Data Explorer Show tour

2 **FILTER**

- 3 • *Filter*: a single condition to subset the data. ⓘ
- 4 • *Nested filter*: a group of filters combined together.
- 5 • Filtering is case-sensitive for text fields.

6 **AND OR** + Add filter + Add nested filter

7 citizenship_country ×

8 equal ×

9 CUBA

10 departure_country ×

11 contains ×

12 CUBA

13 departed_date ×

14 greater or equal

15 01/01/2025

16 **Result:** 643 rows match the filter(s) out of 528,441

17 **Missing values detected:** ⓘ

- 18 • citizenship_country : 1 missing (0%)
- 19 • departure_country : 1 missing (0%)

20 Reset filters

17 Deportation Data Project, Data Explorer, [https://deportationdata-ice-](https://deportationdata-ice-removals.share.connect.posit.cloud/)
18 [removals.share.connect.posit.cloud/](https://deportationdata-ice-removals.share.connect.posit.cloud/) [<https://perma.cc/3UM6-3WVR>].⁶

19 In addition to these, at least 501 Cuban citizens were removed to third countries,
20 primarily to Mexico.⁷

21 _____

22 ⁶ Dataset last updated in late July 2025. Deportation Data Project,
23 <https://deportationdata.org/data/ice.html> [<https://perma.cc/8TLF-TGFR>] (“The most
24 recent release of data covers ICE enforcement actions through late July 2025.”).

25 ⁷ Claire Healy and Syrah Ortiz-Blanes, *Cubans with Criminal Records in the U.S. are*
26 *being Quietly Deported to Mexico*, Miami Herald (Oct. 21, 2025),
<https://www.miamiherald.com/news/local/immigration/article312432237.html>
[<https://perma.cc/55VV-TMQG>] (“It is unclear how many immigrants from third

1 **Deportation Data Project** Data Explorer [Show tour](#)

2 **Filter**

- 3 • *Filter*: a single condition to subset the data. [?](#)
- 4 • *Nested filter*: a group of filters combined together.
- 5 • Filtering is case-sensitive for text fields.

6 **AND OR** [+ Add filter](#) [+ Add nested filter](#)

7 citizenship_country

8 equal

9 CUBA

10 departure_country

11 doesn't contain

12 CUBA

13 departed_date

14 greater or equal

15 01/01/2025

16 **Result:** 501 rows match the filter(s) out of 528,441

17 **Missing values detected:** [?](#)

- 18 • citizenship_country : 1 missing (0%)
- 19 • departure_country : 1 missing (0%)

20 [Reset filters](#)

17 There is no indication that the Cuban government’s policy of refusing to accept
18 detainees with criminal records has materially changed even as the United States
19 government has begun re-arresting detainees who were previously released under
20 orders of supervision.

21 Removal to Cuba is not reasonably foreseeable. ICE has not obtained a travel
22 document from Cuba for Petitioner, nor has Cuba agreed to accept Petitioner.
23 Mr. Veiga has attempted to obtain a travel document from Cuba and has been
24 unsuccessful.

25 _____
26 countries have been deported to Mexico from the interior of the U.S. this year. One
shelter in Mexico has registered nearly 350 Cubans, the vast majority long-time U.S.
residents, since the beginning of the year.”).

1 **VI. The Legal Framework for Third-Country Removals**

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

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

14 Second, if the individual is not removed to the country they designated under
15 § 1231(b)(2)(A), the government shall remove the individual to the country of which
16 the individual is a “subject, national, or citizen” unless the government of that country
17 does not inform the U.S. government or the individual within 30 days after first inquiry
18 or within another reasonable period of time whether the government will accept the
19 individual into the country or the country is not willing to accept the individual into the
20 country. 8 U.S.C. § 1231(b)(2)(D).

21 Third, if the individual is not removed to either the country of their designation
22 or the country of which they are a subject, national, or citizen, then the government
23 shall remove them to any of the following options: (1) the country from which the
24 individual was admitted to the United States; (2) the country in which is located the
25 foreign port from which the individual left for the United States or for a foreign
26 territory contiguous to the United States; (3) the country in which the individual resided

1 before the individual entered the United States and from which the individual entered
2 the United States; (4) the country in which the individual was born; or (5) the country in
3 which the individual's birthplace is located when the individual was ordered removed.
4 8 U.S.C. § 1231(b)(2)(E). *Only* "[i]f impracticable, inadvisable, or impossible" to
5 remove the individual to any of these countries may the government remove the
6 individual to "another country whose government will accept [them] into that country."
7 8 U.S.C. § 1231(b)(2)(E)(vii).

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

16 Similarly, Congress codified protections enshrined in the Convention Against
17 Torture (CAT) prohibiting the government from removing a person to a country where
18 they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998
19 ("FARRA"), Public Law 105-277, div. G, sec. 2242, 112 Stat. 2681, 2631-822 (8
20 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel, extradite,
21 or otherwise effect the involuntary return of any person to a country in which there are
22 substantial grounds for believing the person would be in danger of being subjected to
23 torture, regardless of whether the person is physically present in the United States."); 28
24 C.F.R. § 200.1; §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also
25 mandatory.
26

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

18 Due process also demands that the government “ask the noncitizen whether he or
19 she fears persecution or harm upon removal to the designated country and memorialize
20 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
21 necessary information from the noncitizen to comply with section 1231(b)(3) and
22 avoids [a dispute about what the officer and noncitizen said].” *Aden*, 409 F. Supp. 3d at
23 1019; *cf. D.V.D.*, 2025 WL 1453640, at *1 (“Following notice, the individual must be
24 given a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim
25 for CAT protection prior to removal.”) (emphasis omitted).

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

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

15 **VII. Facts Pertaining to Punitive Banishment to Third Countries**

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

20 Respondents reportedly have negotiated with at least 58 countries to accept
21 deportees from other nations. On June 25, 2025, the *New York Times* reported that
22 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
23 Rwanda—had agreed to accept deportees who are not their own citizens.⁸ Since then,
24 ICE has carried out highly publicized third-country deportations to South Sudan and

25 ⁸ Edward Wong, et al., *Inside the Global Deal-Making Behind Trump’s Mass*
26 *Deportations*, N.Y. Times (June 25, 2025), <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html> [<https://perma.cc/64G9-XYGB>].

1 Eswatini. It also attempted—and completed—an “end-run” around the protections of
2 the Convention Against Torture by deporting a group of migrants to Ghana, which sent
3 them on to their countries of citizenship despite fears of persecution.

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

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

22 On July 9, 2025, ICE issued a new memo to staff instructing that when seeking
23 to remove an individual to a country not designated on that person’s removal order, that
24 ICE may deport that person without any procedures for notice or an opportunity to be
25 heard if the State Department confirms that it has received diplomatic assurances that
26 individuals will not be persecuted or tortured. If no diplomatic assurances are received,

1 the ICE memo instructs officers to serve on the individual a Notice of Removal that
2 includes the intended country of removal. It instructs officers not to ask whether the
3 individual is afraid of removal to that country. It states that officers should “generally
4 wait at least 24 hours following service of the Notice of Removal before effectuating
5 removal” but that “[i]n exigent circumstances, [ICE] may execute a removal order six
6 (6) or more hours after service of the Notice of Removal as long as the [noncitizen] is
7 provided reasonable means and opportunity to speak with an attorney prior to removal.”

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

20 The eight men who were ultimately deported to South Sudan all claimed fear of
21 removal to South Sudan. None of those men were provided a fear screening by a
22 USCIS officer or otherwise, despite the fact that they were held by ICE for six weeks
23 on a U.S. military base in Djibouti before their final removal to South Sudan.

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

25 It is bedrock law that the U.S. government may not impose or inflict an infamous
26 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court

1 ruled that while deportation itself was not a punishment, the government could not
2 attach punitive conditions to deportation—in that case, imprisonment at hard labor—
3 absent a criminal charge, trial in a court of law, and the protections of the Fifth, Sixth,
4 and Eighth Amendments. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

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

18 Deportation of individuals to third countries to be imprisoned or harmed is
19 unquestionably punishment.

20 Grounds for Relief

21 **Ground One: Petitioner’s Continued Detention in Immigration Custody**
22 **Violates the Due Process Clause of the Fifth Amendment to the U.S.**
23 **Constitution Because There Is No Significant Likelihood that Petitioner Will Be**
24 **Removed in the Reasonably Foreseeable Future.**

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

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

26 Detention of noncitizens who have been ordered removed is mandatory during the so-

1 called 90-day “removal period.” 8 U.S.C. § 1231(a)(1)(A). This period begins, as
2 relevant here, on the “date the order of removal becomes administratively final.”
3 8 U.S.C. § 1231(a)(1)(B)(i). Because Petitioner’s removal order became final on
4 August 27, 2013, the removal period has long since expired and detention is no longer
5 required under 8 U.S.C. § 1231.

6 Not only is detention no longer required, it is no longer allowed under the facts
7 of this case. Given the “serious constitutional threat” the *Zadvydas* Court believed to be
8 posed by the indefinite detention of noncitizens who had been admitted to the country
9 under the Fifth Amendment’s Due Process Clause, 533 U.S. at 699, the Court
10 interpreted 8 U.S.C. 1231(a)(6) to permit only detention related to the statute’s “basic
11 purpose [of] effectuating [a noncitizen’s] removal[.]” *Id.* at 696-699. The Court further
12 held that the presumptive period during which the detention is reasonably necessary to
13 effectuate a noncitizen’s removal is six months; after that, the noncitizen is eligible for
14 conditional release if he can demonstrate that there is “no significant likelihood of
15 removal in the reasonably foreseeable future.” *Id.* at 701. After the “presumptively
16 reasonable” period of six months’ detention, when the noncitizen can “provide good
17 reason to believe that there is no significant likelihood of removal in the reasonably
18 foreseeable future,” then “the Government must respond with evidence sufficient to
19 rebut that showing.” *Id.* “A petitioner’s total length of confinement need not be
20 consecutive to reach the six-month presumptively reasonable limit established in
21 *Zadvydas*.” *Tang v. Bondi*, No. 2:25-CV-01473-RAJ-TLF, 2025 WL 2637750, at *4
22 (W.D. Wash. Sept. 11, 2025).

23 Here, the government cannot rebut the conclusion that Petitioner’s continued
24 detention in ICE custody violates the Due Process Clause of the Fifth Amendment
25 under *Zadvydas*. See *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *28–
26 29 (W.D. Wash. Aug. 21, 2025) (granting preliminary injunction requiring release

1 under *Zadvydas*); *Tang*, dkt. 26 at 12 (same). Mr. Veiga’s removal order occurred over
2 a decade ago, and the presumptively reasonable period of time during which he could
3 be detained has long passed. Because Mr. Veiga is a citizen of Cuba, a country
4 notorious for not accepting deportees who have criminal records, it is especially
5 unlikely that respondents will succeed in removing Mr. Veiga in the reasonably
6 foreseeable future.

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

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

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

20 Prior to any third-country removal, Petitioner must be provided with
21 constitutionally and statutorily compliant notice and an opportunity to respond and
22 contest that removal if he has a fear of persecution or torture in that country in reopened
23 removal proceedings. *See Nguyen*, 2025 WL 2419288, at *29 (granting preliminary
24 injunction against “removing Petitioner to a country other than [home country] without
25 notice and a meaningful opportunity to be heard in reopened removal proceedings with
26 a hearing before an immigration judge”).

1 **Ground Three: Punitive Third-Country Banishment; Violation of Fifth and**
2 **Eighth Amendments**

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

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

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

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

15 Petitioner was convicted and completed his sentence for his criminal convictions
16 over a decade ago. His conviction made him removable from the United States, but the
17 convictions do not authorize the government to inflict, as a matter of executive policy
18 and discretion, additional punishment on him. Respondents’ third-country removal
19 program is punitive in nature and execution.

20 The government has arranged for third countries to receive deportees and
21 imprison them on arrival, possibly indefinitely and often in abhorrent conditions. It has
22 selected countries notorious for human rights abuses and instability for third-country
23 removal arrangements. It has targeted individuals with criminal convictions for third-
24 country removals where they will be imprisoned and harmed and publicly broadcast
25 those removals to demonize and dehumanize the individuals subjected to these practices
26 and strike fear in the immigrant community to send a message of retribution and
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. 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 31st day of October 2025.

7 Respectfully submitted,

8
9 *s/ J. Leonardo Costales*
10 Assistant Federal Public Defender
11 Attorney for Felix Daniel Veiga
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