

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAOUD MEHRABI,

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. 2:25-cv-02227-DGE-TLF

**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: Daoud Mehrabi
- (b) Other names used: N/A
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 [ICE file number, if known]: My A# is 

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

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

Decision or Action You Are Challenging

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

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

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

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

(c) Decision or action you are challenging: I am originally from Afghanistan. Before coming to the United States, I was legally living in France. After coming to the United States on December 19, 2024, I was detained by ICE and spent approximately one month in detention in Georgia until I was released to the United States on or about January 21, 2025. Then, on February 5, 2025, I was taken into ICE custody in Washington State and have been held at the Northwest Immigration Processing Center since then. An immigration judge issued a final deportation order on April 16, 2025, and I intend to return to France. I have been detained in ICE custody for 6.5 months following my final deportation order.

Your Earlier Challenges of the Decision or Action

7–9. First, second, and third appeals: None

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

11. Appeals of immigration proceedings:

Does this case concern immigration proceedings? Yes

1 (a) Date you were taken into immigration custody: December 19, 2024 to
2 January 21, 2025; February 5, 2025 to present.

3 (b) Date of the removal or reinstatement order: April 16, 2025

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

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

6 12. Other appeals: None

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

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

10 **I. Introduction**

11 Daoud Mehrabi is presently detained at the Northwest ICE Processing Center
12 (NWIPC). He has been held in immigration custody for 6.5 months since his removal
13 order was issued. Removal to the former country of residence is not reasonably
14 foreseeable. His continued detention is therefore in violation of *Zadvydas v. Davis*, 533
15 U.S. 678, 689 (2001). He seeks (a) release; (b) an order preventing removal to a third
16 country (other than France) without notice and meaningful opportunity to respond in
17 compliance with the statute and due process in reopened removal proceedings; and (c)
18 an order barring removal to any third country pursuant to Respondents' punitive
19 removal policy.

20 **II. Jurisdiction and Venue**

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

24 This Court has subject matter jurisdiction under 28 U.S.C. § 2241, *et seq.*
25 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346 (United States
26

1 as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Respondents have waived
2 sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

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

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

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

15 **III. Requirements of 28 U.S.C. §§ 2241, 2243**

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

21 Petitioner is "in custody" for the purpose of § 2241 because he has been detained
22 by Respondent ICE in Tacoma, Washington, since February 5, 2025, and has remained
23 detained since the final removal order was issued on April 16, 2025.

24 **IV. Parties**

25 Daoud Mehrabi is a citizen of Afghanistan, who had a long-term residency
26 permit in France where he has lived since he was 16 years old. He cannot return to

1 Afghanistan. He has a final order of removal, issued April 16, 2025. France was not
2 specifically designated as the country for removal, though he seeks to return to France
3 and no other country. Petitioner is detained in the control and custody of Respondents at
4 NWIPC. As such, Petitioner is a resident of Tacoma, Washington.

5 Respondent Pamela Bondi is the Attorney General of the United States. In this
6 capacity, Respondent Bondi is the legal custodian of Petitioner. Respondent Bondi is
7 sued in her official capacity.

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

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

16 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
17 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant
18 to a contract with ICE to detain noncitizens. Mr. Scott is sued in his official capacity as
19 the Warden of a federal detention facility. *See Juarez v. Asher*, No. C20-700, 2021 WL
20 1946222, at *3–5 (W.D. Wash. May 14, 2021).

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

V. Background

The Afghanistan War waged from 2001 through 2021, with United States and its allies in armed conflict with the [REDACTED] Born in [REDACTED] Daoud Mehrabi grew up surrounded by unrest and violence in Afghanistan, where he lived until he was 14 years old. Mr. Mehrabi's family sided with the United States in the war. For example, his older brother, Shah Mahmood Mehrabi, worked closely with the United States and Canadian militaries to set up satellite communication on the ground in Afghanistan, which was vital to the mission. Although the United States ended combat operations in 2014, the violence from the [REDACTED] did not cease. *The War In Afghanistan*, George W. Bush Library, <https://www.georgewbushlibrary.gov/research/topic-guides/the-war-in-afghanistan> [https://perma.cc/QC4P-N2PA] (last visited Nov. 7, 2025). During this dangerous period of unrest, there were many bombings and kidnappings. The family's assistance to the United States military further jeopardized their safety. The [REDACTED] eventually took control of Afghanistan in 2021 and remains in control today. The country remains very dangerous due to civil unrest, terrorism, kidnappings, and other crime. See *Afghanistan Travel Advisory*, United States Department of State – Bureau of Consular Affairs, available at <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/afghanistan-advisory.html> (U.S. Embassy suspended operations in 2021 in Kabul) [https://perma.cc/3QXE-ERCK] (last visited Nov. 7, 2025).

Mr. Mehrabi lived in Afghanistan with his parents until 2015, when he was 14 years old. In 2015, due to the violence, he was sent to Austria as an unaccompanied minor, where he lived and attended school for approximately two years. When he was 16 years old, he moved to France as an unaccompanied minor and continued attending school. Mr. Mehrabi obtained a certificate in electricity as vocational training. He then

1 worked in the hospitality industry, including in hotel reception at the L'Hermitage
2 Gantois in Lille, France.

3 In 2021, Mr. Mehrabi obtained a French residency permit, which approved
4 residency for five years. His residency permit expired on October 20, 2025, while in
5 ICE detention. Mr. Mehrabi has a French driver's license and a French passport as well,
6 neither of which have expired.

7 Mr. Mehrabi has family in the United States. On December 19, 2024, he was
8 detained in San Diego, California. Through ICE detention, he was transferred to
9 Georgia, and later released into the United States community on January 21, 2025.
10 Mr. Mehrabi traveled to Seattle, Washington, to see one of his sisters, and stayed with
11 her for approximately two weeks.

12 Mr. Mehrabi also has family in Canada, including a sister and his brother Shah
13 Mahmood Mehrabi. On February 5, 2025, Mr. Mehrabi tried to visit family in Canada
14 but was turned away by Canadian authorities at the Canadian/United States border.
15 When he turned around to return to the United States, he was detained once again by
16 immigration and taken to the Northwest ICE Processing Center in Tacoma,
17 Washington, where he remains detained.

18 On April 16, 2025, an immigration judge denied his request for asylum and
19 issued a final removal order to deport Mr. Mehrabi. Based on his family's history
20 supporting the United States, Mr. Mehrabi states that he cannot return to Afghanistan.
21 Mr. Mehrabi only seeks to return to France, where he had been legally residing. It has
22 been over six months since an immigration judge ordered him deported and yet he
23 remains detained, and will remain so for the indefinite future.

VII. The Legal Framework for Third-Country Removals

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

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

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

Third, if the individual is not removed to either the country of their designation or the country of which they are a subject, national, or citizen, then the government shall remove them to any of the following options: (1) the country from which the individual was admitted to the United States; (2) the country in which is located the foreign port from which the individual left for the United States or for a foreign 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 **VIII. 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.¹ Since then,
 24 ICE has carried out highly publicized third-country deportations to South Sudan and

25 ¹ 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 **IX. 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 non-citizen] 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.**

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

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

Detention of non-citizens 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.” 8
3 U.S.C. § 1231(a)(1)(B)(i). Because Petitioner’s removal order became final on April 16,
4 2025, the removal period has long since expired and detention is no longer required
5 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 non-citizens who had been admitted to the country
9 under the Fifth Amendment’s Due Process Clause, 553 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 non-citizen]’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 non-citizen’s removal is six months; after that, the non-citizen is eligible
14 for 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*, 2025 WL 2637750, at *6 (same). It has been 10 years since Mr.
2 Mehrabi lived in Afghanistan for 10 years, and he cannot return to the country under
3  rule. With the 
4 the Afghanistan War, Mr. Mehrabi's life and safety would be in significant danger.
5 Accordingly, the immigration judge did not order him returned to Afghanistan. France
6 is the country where he legally resided prior to entering the United States, and under
7 immigration laws, he should be returned there. Although his residency permit expired
8 on October 20, 2025, his permit would still have been valid had he been deported
9 within six months as required under *Zadvydas*. Given the friendly relationship between
10 the United States and France, a six-month detention is far longer than necessary to
11 effectuate his removal to France. Mr. Mehrabi can be released to the United States. He
12 was released from detention on January 21, 2025 and detained again on February 5,
13 2025. However, no factual circumstances changed during that short period that would
14 warrant keeping him detained and he should be released pursuant to *Zadvydas*.

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

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

18 The Fifth Amendment, the INA, the CAT, and implementing regulations
19 mandate meaningful notice and opportunity to respond to any attempt to remove
20 Petitioner to a third country (other than France) in reopened removal proceedings. They
21 also require an opportunity for Petitioner to make a fear-based claim against removal to
22 a third country in reopened removal proceedings. Respondents' policy for third-country
23 removals violates all of these laws because it directs ICE agents to remove individuals
24 to third countries without any notice or process *at all* where diplomatic assurances are
25 received and, where no diplomatic assurances are received, to provide flagrantly
26

1 insufficient notice (6–24 hours) and opportunity to respond, in violation of the statute,
2 regulations, and Fifth Amendment.

3 With an exception for France, prior to removal to any other third country,
4 Petitioner must be provided with constitutionally and statutorily compliant notice and
5 an opportunity to respond and contest that removal if he has a fear of persecution or
6 torture in that country in reopened removal proceedings. *See Nguyen*, 2025 WL
7 2419288, at *29 (granting preliminary injunction against “removing Petitioner to a
8 country other than [home country] without notice and a meaningful opportunity to be
9 heard in reopened removal proceedings with a hearing before an immigration judge”).

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

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

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

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

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

24 Respondents’ third-country removal program is punitive in nature and execution.
25 The government has arranged for third countries to receive deportees and imprison
26 them on arrival, possibly indefinitely and often in abhorrent conditions. It has selected

1 countries notorious for human rights abuses and instability for third-country removal
2 arrangements. It has targeted individuals with criminal convictions for third-country
3 removals where they will be imprisoned and harmed and publicly broadcast those
4 removals to demonize and dehumanize the individuals subjected to these practices and
5 strike fear in the immigrant community to send a message of retribution and deterrence.

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

14 Respondents may not seek to remove Petitioner to a third country other than
15 France under their punitive banishment policy and practices. *See Nguyen*, 2025 WL
16 2419288, at *29 (granting preliminary injunction against "removing Petitioner to any
17 country where he is likely to face imprisonment upon arrival").

18 **Prayer for Relief**

19 Petitioner respectfully requests that this Court:

- 20 (a) Assume jurisdiction over this action;
- 21 (b) Issue an Order directing Respondents to show cause why this Petition
22 should not be granted within three days;
- 23 (c) Order Respondents to immediately release Petitioner from custody;
- 24 (d) Order that Respondents may not remove or seek to remove Petitioner to a
25 third country (other than France) without notice and meaningful opportunity to respond
26 in compliance with the statute and due process in reopened removal proceedings;

1 (e) Order that Respondents may not remove Petitioner to any third country
2 (other than France) because Respondents' third-country removal program seeks to
3 impose unconstitutional punishment on its subjects, including imprisonment and other
4 forms of harm; and

5 (f) Order all other relief that the Court deems just and proper.

6 **Verification Pursuant to LCR 100(e)**

7 Counsel verifies that this petition is authorized by Petitioner. It does not
8 personally bear Petitioner's signature because of the significant difficulty for counsel in
9 meeting with Petitioner in person and because mailing the petition to Petitioner and
10 having it mailed back would cause delay that would only extend the period of his
11 unlawful detention. Counsel knows the facts asserted above or alleges them on
12 information and belief, based on information obtained from the government and/or
13 Petitioner.

14 DATED this 7th day of November, 2025.

15 Respectfully submitted,

16 s/ *Lindsay McCaslin*
17 Assistant Federal Public Defender
18 Attorney for Daoud Mehrabi
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