


1 Names: N/A
[any other names you have used].

2 I am currently detained at GOLDEN STATE ANEX [name of detention

3 facility]. The detention facility's address is:

4 _____
5 611 FRONTAGE ROAD
6 _____
7 MC FARLAND CA. 93250
[address of detention facility],

8 The detention facility is detaining me pursuant to a contractual arrangement with my
9 custodian, United States Immigration and Customs Enforcement (ICE).

10 My Alien Registration Number, or A Number, is 

11 My country of birth is: CAMBODIA

12 I was ordered deported/removed on or about MAY, 2000 [date]. I

13 was ordered deported/removed to the nation of CAMBODIA [nation to which you were
14 ordered deported/removed].

15 In total, I have been detained by ICE for more than six months following my
16 removal/deportation order. For the following reason[s], I do not believe there is a significant
17 likelihood that ICE will be able to remove me to the country identified in my
18 deportation/removal order in the reasonably foreseeable future:

19 I WAS DETAINED FOUR TIMES (1998-2000, 2006, 2012, 2015,
20 AND MOST RECENTLY, 10/14/2025). SINCE 1998, ICE HAS BEEN
21 TRYING TO OBTAIN TRAVEL DOCUMENTS AND DEPORT ME (OVER
22 THE LAST 27 YEARS). I DO NOT BELIEVE THERE IS A SIGNIFICANT
23 LIKELIHOOD THAT ICE WILL BE ABLE TO REMOVE ME TO CAMBODIA
24 IN THE FORESEEABLE FUTURE

1 **First or Subsequent Detention Period Following Deportation/Removal Order?**

2 *[check only one box]*

3 I have been detained by ICE continuously since the day I was ordered
4 deported/removed.

5 After I was ordered deported/removed, I was detained until
6 May, 2000 [date]. I was then released from ICE custody under an Order of
7 Supervision until 10/14/2025 [date]. I was arrested and/or taken back into
8 custody on that date and I have been detained by ICE continually since that date.

9 **B. Facts Pertaining to ICE's Current Third-Country Removal Procedures.**

10 Under procedures announced to ICE staff on July 9, 2025, when seeking to remove an
11 individual to a country not designated on that person's removal order, that ICE may deport that
12 person without any procedures for notice or an opportunity to be heard if the State Department
13 confirms that it has received diplomatic assurances that individuals will not be persecuted or
14 tortured. *Y.T.D. v. Andrews*, 2025 WL 2675760, at *9 (E.D. Cal. Sept. 18, 2025). If no
15 diplomatic assurances are received, the ICE memo instructs officers to serve on the individual
16 a Notice of Removal that includes the intended country of removal. It instructs officers not to
17 ask whether the individual is afraid of removal to that country. It states that officers should
18 "generally wait at least 24 hours following service of the Notice of Removal before
19 effectuating removal" but that "[i]n exigent circumstances, [ICE] may execute a removal order
20 six (6) or more hours after service of the Notice of Removal as long as the [noncitizen] is
21 provided reasonable means and opportunity to speak with an attorney prior to removal."
22 *Y.T.D.*, 2025 WL 2675760, at *9-10.

23 The memo further instructs that if the noncitizen "does not affirmatively state a fear of
24 persecution or torture if removed to the country of removal listed on the Notice of Removal
25 within 24 hours, [ICE] may proceed with removal to the country identified on the notice." *Id.*
26 at * 10. If the noncitizen "does affirmatively state a fear if removed to the country of

1 removal,” then ICE will refer the case to U.S. Citizenship and Immigration Services
2 (“USCIS”) for a screening for eligibility for withholding of removal and protection under the
3 Convention Against Torture. “USCIS will generally screen within 24 hours.” *Ibid.* If USCIS
4 determines that the noncitizen does not meet the standard, the individual will be removed.
5 *Ibid.* If USCIS determines that the noncitizen has met the standard, then the policy directs ICE
6 to either move to reopen removal proceedings “for the sole purpose of determining eligibility
7 for [withholding of removal protection] and CAT” or designate another country for removal.
8 *Ibid.*

9 C. Facts Pertaining to Punitive Removals to Third Countries

10 Since January 2025, Respondents have developed and implemented a policy and
11 practice of removing individuals to third countries without first following the procedures in the
12 Immigration and Nationality Act for designation and removal to a third country and without
13 providing fair notice and an opportunity to contest the removal in immigration court. In
14 several cases “authorities have rounded up—often at night and with little or no notice—men,
15 women, and children being held in detention facilities, hastily put them on planes and
16 transferred them to other countries, where they have no connections, do not speak the
17 language, and are unable to contact family or counsel.” *D.A. v. Noem*, ___ F. Supp.3d ___,
18 2025 WL 2646888, at *1 (D.D.C. Sept. 15, 2025).

19 Respondents reportedly have negotiated with numerous countries to accept deportees
20 from other nations. These countries include Uganda, Honduras, El Salvador, Costa Rica,
21 Cuba, Jamaica, Mexico, Laos, Myanmar, Yemen, South Sudan, Eswatini, Guatemala Kosovo,
22 Ghana, Rwanda, Paraguay, and Panama.¹

23 _____
24 ¹ Edward Wong, et al., *Inside the Global Deal-Making Behind Trump’s Mass Deportations*,
25 N.Y. TIMES (June 25, 2025), [https://www.nytimes.com/2025/06/25/us/politics/trump-](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html)
26 [immigrants-deportations.html](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html); Camilo Montoya-Galvez, *U.S. broadens search for deportation*
agreements, striking deals with Honduras and Uganda, documents show, CBS NEWS (Aug. 21,
2025), <https://www.cbsnews.com/news/us-deportation-agreements-honduras-uganda/>; Matthew
Mpoke Bigg, *Why African Countries Keep Making Deals to Accept U.S. Deportees*, N.Y.

1 Punishment and deterrence appear to be the point of the Administration's third-country
 2 removal scheme. As noted by Judge Cartwright in *Nguyen*, "courts across the country have
 3 recognized that the government is intentionally removing individuals to countries where they
 4 will be imprisoned." *Nguyen v. Scott*, __ F.Supp.3d __, 2025 WL 2419288, at *24 (W.D.
 5 Wash. Aug. 21, 2025). For example, the government paid El Salvador \$4.76 million to
 6 arbitrarily and indefinitely imprison more than deported Venezuelans in a maximum-security
 7 prison notorious for gross human rights abuses, known as CECOT.² In September, 2025, five
 8 ICE detainees were awoken in the middle of the night and flown to Ghana despite the fact that
 9 they had not been ordered removed to Ghana and had no connection with Ghana. *D.A.*, 2025
 10 WL 2646888, at *2. Ghana then sent at least one of these persons to a country where they
 11 would likely be tortured. *Id.* The other four were taken to an open-air detention facility in
 12 Ghana where they were held with little running water, wore the same clothes for several days,
 13 and were surrounded by armed military guards. *Id.* at * 4. Similarly, ICE recently deported
 14 five men from Cuba, Jamaica, Laos, Vietnam and Yemen to Eswatini, "an absolute monarchy
 15 ruled by a king who is accused of clamping down on human rights."³ The men are being
 16 jailed in a maximum security prison in Eswatini.⁴

17 Public statements by government officials provide further evidence that "third
 18 country deportation is occurring as punishment." *Nguyen*, 2025 WL 2419288, at *24

19
 20 Times (Sept. 23, 2025), <https://www.nytimes.com/2025/09/23/world/africa/african-countries-us-deportees.html>

21
 22 ² Rebecca Beitsch, *Litigation reveals details of Trump deal with El Salvador to imprison migrants*, THE HILL (September 9, 2025),
 23 <https://thehill.com/homenews/administration/5493750-cecot-legal-counsel-ban/>.

24 ³ Gerald Imray, *A Cuban man deported by the US to Africa is on a hunger strike in prison, his lawyer says*, AP NEWS (Oct. 23, 2025), <https://apnews.com/article/deported-immigration-migrants-trump-eswatini-8d8aad6dd01bf0e72de06480f3c70859>.

25
 26 ⁴ *Ibid.*

1 (judicially noticing “official video of President Donald J. Trump stating “[I]f illegal aliens
2 choose to remain in America, they're remaining illegally and they will face severe
3 consequences. Illegal aliens who stay in America face punishments, including significant jail
4 time, enormous financial penalties, confiscation of all property, garnishment of all wages,
5 imprisonment and incarceration, and sudden deportation in a place and manner solely of our
6 discretion.” and “statement by President Donald J. Trump that immigrants would be detained
7 at Guantanamo Bay prison because ‘it's a tough place to get out’ and ‘we don't want them
8 coming back.”).

9 II. Jurisdiction and Venue

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

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

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

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

24 Because Petitioner is seeking relief related only to custody status, which is not
25 inconsistent with an order of deportation, exhaustion of administrative remedies, if any, is not
26 required.

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

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

6 Petitioner is “in custody” for the purpose of § 2241 because petitioner is being detained
7 by ICE.

8 **IV. Parties**

9 Petitioner is subject to a final order of removal from the United States and is detained by
10 ICE.

11 The first listed Respondent in the caption of this petition is the Warden or Director of the
12 facility in which Petitioner is detained. This person has immediate physical custody of
13 Petitioner pursuant to a contract with ICE to detain noncitizens. This person is sued in his/her
14 official capacity.

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

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

21 Respondent Todd M. Lyons is the Acting Director of the United States Immigration
22 and Customs Enforcement (“ICE”) and as such can authorize Petitioner’s detention or release.
23 Respondent Lyons is sued in his official capacity.

1 **V. Legal Framework**

2 **A. Detention Following a Final Order of Removal/Deportation**

3 The INA provides that after a removal order becomes final, the government “shall remove
4 the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231(a)(1)(A). This
5 period is sometimes referred to as the “removal period.” § 1231(a)(1). During the 90-day
6 removal period, detention of the noncitizen is authorized. 8 U.S.C. § 1231(a)(2).

7 8 U.S.C. § 1231(a)(6) allows the government to detain certain enumerated classes of
8 noncitizens—including those ordered removed due to criminal convictions—for more than 90
9 days. *Id.* § 1231(a)(6). However, “once removal is no longer reasonably foreseeable,
10 continued detention is no longer authorized by [section 1231(a)(6)].” *Zadvydas v. Davis*, 533
11 U.S. 678, 699 (2001).

12 Upon release from custody, a noncitizen subject to a final order of removal must comply
13 with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6).

14 **B. Revocation of Post-Final-Order Release**

15 The Government has promulgated regulations concerning the release of noncitizens
16 who are subject to a final removal order. 8 C.F.R. § 241.4; 8 C.F.R. § 241.13. Both 8 C.F.R. §
17 241.4(l)(1) and § 241.13(i)(3) provide that, upon revocation of release, the noncitizen “will be
18 notified of the reasons for revocation of his or her release,” and will be given “an initial
19 informal interview promptly after his or her return to Service custody to afford the alien an
20 opportunity to respond to the reasons for revocation stated in the notification.” *Constantinovici*
21 *v. Bondi*, ___ F.Supp.3d ___, 2025 WL 2898985, at *4 (S.D. Cal. Oct. 10, 2025) (citing cases);
22 *Diaz v. Wofford*, 2025 WL 2581575, at *5 (E.D. Cal. Sept. 5, 2025) (same). “Both 8 C.F.R. §
23 241.4 and 8 C.F.R. § 241.13 were intended to provide due process protections to noncitizens
24 following the removal period as they are considered for continued detention, release, and then
25 possible revocation of release.” *Constantinovici*, 2025 WL 2898985 at * 5 (internal quotations
26 and citations omitted). The government is required to follow these regulations in revoking a

1 noncitizen's release. *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025)
2 (citing *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)); *see also Yang*
3 *v. Kaiser*, 2025 WL 2791778, at *6 (E.D. Cal. Aug. 20, 2025) (same).

4 C. The Legal Framework for Third-Country Removals

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

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

15 § 1231(b)(2)(C).

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

22 § 1231(b)(2)(D).

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

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

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

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

25 To comport with the requirements of due process, the government must provide notice
26 of the third-country removal and an opportunity to respond. Due process requires "written

1 notice of the country being designated” and “the statutory basis for the designation, i.e., the
2 applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D.
3 Wash. 2019); *see also Ibarra-Perez v. United States*, __ F.4th __, 2025 WL 2461663, at *5
4 (9th Cir. Aug. 27, 2025) (“DHS must also ‘notify individuals who are subject to deportation
5 that they have the right to apply for asylum in the United States and for withholding of
6 deportation to the country to which they will be deported’; otherwise, DHS violates their
7 constitutional right to due process”) (citing *Andriasian*); *Andriasian v. INS*, 180 F.3d 1033,
8 1041 (9th Cir. 1999) (due process requires notice to the noncitizen of the right to apply for
9 asylum and withholding to the country where they will be removed); *Nguyen*, 2025 WL
10 2419288, at *18 (under binding Ninth Circuit precedent, ICE detainee “cannot be removed to a
11 third country without sufficient notice and opportunity to be heard.”). In addition, the
12 government must be able to show evidence that the third country will accept the individual into
13 that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004) (“at the time the
14 government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government
15 must be able to show that the proposed country *will* accept the [individual]”).

16 Due process also demands that the government “ask the noncitizen whether he or she
17 fears persecution or harm upon removal to the designated country and memorialize in writing
18 the noncitizen’s response. This requirement ensures DHS will obtain the necessary information
19 from the noncitizen to comply with section 1231(b)(3) and avoids [a dispute about what the
20 officer and noncitizen said].” *Aden*, 409 F. Supp. 3d at 1019.

21 If the noncitizen claims fear, measures must be taken to ensure that the noncitizen can
22 seek asylum, withholding, and relief under CAT before an immigration judge in reopened
23 removal proceedings. *Cf. Y.T.D. v. Andrews*, 2025 WL 2675760, at *13 (E.D. Cal. Sept. 18,
24 2025) (requiring the government to move to reopen the noncitizen’s immigration proceedings
25 if the individual demonstrates “reasonable fear” and to provide “a meaningful opportunity, and
26 a minimum of fifteen days, for the non-citizen to seek reopening of their immigration

1 proceedings” if the noncitizen is found to not have demonstrated “reasonable fear”); *Aden*, 409
2 F. Supp. 3d at 1019 (requiring notice and time for a respondent to file a motion to reopen and
3 seek relief).

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

9 **D. The Law Governing Punitive Removal Practices**

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

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

1 of guilt should first be established by a judicial trial.” *Id.* at 237. Deportation of individuals
2 to third countries to be imprisoned or harmed is unquestionably punishment.

3 **VI. Grounds for Relief**

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

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

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

1 For the reasons stated in Section I(A) of this petition, there is not a significant
2 likelihood Petitioner will be removed in the reasonably foreseeable future. Petitioner's
3 continued detention in ICE custody violates the Due Process Clause of the Fifth Amendment
4 under *Zadvydas*. See e.g., *Nguyent*, 2025 WL 2419288, at *28–29 (granting preliminary
5 injunction requiring release under *Zadvydas*).

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

9 As an ICE detainee, Petitioner is subject to ICE's current procedures regarding removal
10 of persons to third countries. ICE's current procedures for removal of detainees to third
11 countries, described in Section I(B) of this petition, violates the Fifth Amendment, the INA, the
12 CAT, and implementing regulations, all of which mandate meaningful notice and opportunity
13 to respond to any attempt to remove Petitioner to a third country in reopened removal
14 proceedings. They also require an opportunity for Petitioner to make a fear-based claim
15 against removal to a third country in reopened removal proceedings. Respondents' policy for
16 third-country removals violates all of these laws because it directs ICE agents to remove
17 individuals to third countries without any notice or process at all where diplomatic assurances
18 are received and, where no diplomatic assurances are received, to provide flagrantly
19 insufficient notice (6–24 hours) and opportunity to respond, in violation of the statute,
20 regulations, and Fifth Amendment.

21 Respondents' current third country removal procedure is inconsistent with Ninth
22 Circuit precedent regarding due process protections with respect to removal to third country, as
23 described in Section V(C) of this petition. *Nguyen*, 2025 WL 2419288, at *18–19 (W.D.
24 Wash. Aug. 21, 2025). ICE's current procedures fail to give an ICE detainee sufficient notice
25 and a meaningful opportunity to present asylum and withholding of removal claims regarding
26 the third country to which ICE seeks to send the detainee. *Ibid.*; see also *Y.T.D.*, 2025 WL
2675760, at *13 (permanently enjoining Respondent from removing petitioner to third country

1 without “(a) Providing him and his counsel with written notice in a language the Petitioner can
2 understand. (b) Following notice, Petitioner must be given a meaningful opportunity, and a
3 minimum of ten days, to raise a fear-based claim for CAT protection prior to removal. (c) If
4 Petitioner demonstrates ‘reasonable fear’ of removal to the third country, Defendants must
5 move to reopen his immigration proceedings. (d) If the non-citizen is not found to have
6 demonstrated a ‘reasonable fear’ of removal to the third country, Defendants must provide a
7 meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening
8 of his immigration proceedings.”).

9 Prior to any third-country removal, Petitioner must be provided with constitutionally
10 and statutorily compliant notice and an opportunity to respond and contest that removal if it
11 gives rise to a fear of persecution or torture in that country in reopened removal proceedings.
12 *See Nguyen*, 2025 WL 2419288, at *29 (granting preliminary injunction against “removing
13 Petitioner to a country other than [home country] without notice and a meaningful opportunity
14 to be heard in reopened removal proceedings with a hearing before an immigration judge”).

15 **C. Ground Three: Punitive Third-Country Banishment; Violation of Fifth
16 and Eighth Amendments**

17 Under the Fifth Amendment to the U.S. Constitution, no person shall “be held to
18 answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a
19 Grand Jury;” “be subject for the same offence to be twice put in jeopardy of life or limb;” or
20 “be deprived of life, liberty, or property, without due process of law.” The Eighth Amendment
21 provides that no “cruel and unusual punishments” may be inflicted.

22 The U.S. Supreme Court long ago held that the government may not inflict upon
23 individuals an “infamous punishment” in addition to deportation as a penalty for an
24 immigration violation, absent criminal charges, a judicial trial, and attendant constitutional
25 protections. *Wong Wing*, 163 U.S. at 236–38.
26

1 Petitioner has completed any sentence imposed for a criminal conviction. Respondents
2 are not authorized to punish the Petitioner as part of immigration proceedings. Respondents'
3 third-country removal program is punitive in nature and execution.

4 As described in Section I(C) of this petition, the government has arranged for third
5 countries to receive deportees and imprison them on arrival, possibly indefinitely and often in
6 abhorrent conditions. It has selected countries notorious for human rights abuses and instability
7 for third-country removal arrangements. It has targeted individuals with criminal convictions
8 for third-country removals where they will be imprisoned and harmed and publicly broadcast
9 those removals to demonize and dehumanize the individuals subjected to these practices and
10 strike fear in the immigrant community to send a message of retribution and deterrence.

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

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

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D. Ground Four: Petitioner's Continued Detention in Immigration Custody Violates the Fifth Amendment Due Process Clause, 8 C.F.R. § 241.13, and the Administrative Procedures Act

[pick one]

I am not pursuing Ground Four because I have been detained by ICE continuously since the day I was ordered deported/removed.

I am pursuing Ground Four because I was previously released from post-final order detention and then ICE detained me again without (a) proof that an ICE official determined there is a significant likelihood I will be deported soon, (b) notification of the reasons for revocation of my release, and/or (c) an initial informal interview promptly after my return to custody to afford me an opportunity to respond to the reasons stated in the notification.

Title 8 C.F.R. § 241.13(i)(2) provides that ICE may “revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). That “regulation require[s] (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future.” *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023). When “ICE revokes release to effectuate removal, it is [ICE’s] burden to show a significant likelihood that the alien may be removed.” *Vu v. Noem*, 2025 WL 3114341, at *5 (E.D. Cal. Nov. 6, 2025) (internal quotations and citations omitted). In *Rokhfirooz*, the Court determined that these requirements were not met on a record materially indistinguishable from this one. 2025 WL 2646165, at *3. There, the government failed to produce “any documented determination, made prior to Petitioner's arrest, that his release should be revoked.” *Id.* at *3. Similarly in *Hoac* the Court ordered release where “Respondents have not provided any details about why a travel document could not be obtained in the past, nor have they attempted to show why obtaining a travel document is more likely this time around.” *Hoac*, 2025 WL 1993771, at *4.

1 In addition, Title 8 C.F.R. §§ 241.4(l), 241.13(i)(3)'s "require ICE to provide 'an initial
2 informal interview promptly . . . to afford the alien an opportunity to respond to the reasons for
3 revocation.'" *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017) (quoting 8 C.F.R. §§
4 241.4(l)(2), 241.13(i)(3)). ICE's failure to afford such an interview violates Petitioner's right to
5 due process. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 164–65 (W.D.N.Y. 2025); *see also*
6 *Rombot*, 296 F. Supp. 3d at 386–89. That violation requires release, because (1) government
7 agencies are required to follow their own regulations, and (2) these particular regulations provide
8 the most "minimal process" that the Constitution would permit before "someone's most basic
9 right of freedom is taken away." *Ceesay*, 781 F. Supp. 3d at 164–65; *see also Mathews v.*
10 *Eldridge*, 424 U.S. 319, 348 (1976) ("The essence of due process is the requirement that a person
11 in jeopardy of serious loss be given notice of the case against him and opportunity to meet it."
12 (cleaned up)). That is reason enough to grant this petition.

13 Numerous courts have granted habeas petitions and/or ordered an immigration
14 detainee's release where ICE has failed to follow its own regulations in re-detaining the
15 petitioner. *See, e.g., Phan v. Noem*, 2025 WL 2898977, at *4 (S.D. Cal. Oct. 10, 2025)
16 (granting petition and ordering release of person with final order of removal to Vietnam where
17 "ICE's failure to provide an interview and opportunity to respond" and failure to show a
18 determination "that there is a significant likelihood that the [noncitizen] may be removed in the
19 reasonably foreseeable future" fell short of requirements of 8 C.F.R. § 241.13(i)); *Yee S. v.*
20 *Bondi*, 2025 WL 2879479, at *6 (D. Minn. Oct. 9, 2025) (partially granting petition and
21 ordering petitioner released where "Petitioner has shown that ICE's re-detention of him on
22 June 6, 2025 violated the law because ICE did not comply with its own regulations under
23 section 241.13(i)(2)"); *Hoac*, 2025 WL 1993771, at *4.⁵

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25 ⁵ *See also Bui v. Warden, Otay Mesa Detention Facility, et al.*, 2025 WL 2988356, at *5 (S.D.
26 Cal. Oct. 23, 2025) (granting petition and ordering release where respondent failed to follow its
own regulations in revoking release); *Constantinovici*, 2025 WL 2898985 (S.D. Cal. Oct. 10,
2025) (same); *Sun v. Noem*, 2025 WL 2800037 (S.D. Cal. Sept. 30, 2025) (granting TRO for
release where respondent failed to follow its own regulations in revoking release); *Van Tran v.*

1 **VII. Prayer for Relief**

2 Petitioner respectfully requests that this Court:

3 (a) Assume jurisdiction over this action;

4 (b) Issue an Order directing Respondents to show cause why this Petition should
5 not be granted within three days;

6 (c) Order Respondents to immediately release Petitioner from custody;

7 (d) Order that Respondents may not remove or seek to remove Petitioner to a third
8 country without notice and meaningful opportunity to respond in compliance with the statute
9 and due process in reopened removal proceedings;

10 (e) Order that Respondents may not remove Petitioner to any third country because
11 Respondents' third-country removal program seeks to impose unconstitutional punishment on
12 its subjects, including imprisonment and other forms of harm; and

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

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22 *Noem*, 2025 WL 2770623 (S.D. Cal. Sept. 29, 2025) (same); *Zhu v. Genalo*, 2025 WL
23 2452352, at *9 (S.D.N.Y. Aug. 26, 2025) (partially granting petition and ordering release where
24 respondent did not follow regulations before revoking release); *Ceesay*, 781 F. Supp. 3d at 166
25 ("because ICE did not follow its own regulations in deciding to re-detain Ceesay, his due
26 process rights were violated, and he is entitled to release."); *M.S.L. v. Bostock*, 2025 WL
2430267, at *15 (D. Or. Aug. 21, 2025) (granting petition and ordering release where
respondent violated regulations in revoking release); *Escalante v. Noem*, 2025 WL 2206113, at
*4 (E.D. Tex. Aug. 2, 2025) (same); *Liu v. Carter*, 2025 WL 1696526, at *3 (D. Kan. June 17,
2025) (same); *Rombot*, 296 F. Supp. 3d at 387 (ordering ICE to release petitioner where ICE
failed to follow its own regulations in detaining petitioner).

1 **VIII. Declaration Under Penalty Of Perjury**

2 If you are incarcerated, on what date did you place this petition in the prison mail
3 system: 11.28.2025

4 I declare under penalty of perjury that I am the petitioner, I have read this petition or
5 had it read to me, and the information in this petition is true and correct to the best of my
6 knowledge. I understand that a false statement of a material fact may serve as the basis for
7 prosecution for perjury.

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9 Date: 11.28.2025


[your signature]
WouB PEK
[your printed name]

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