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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HUMBERTO PEREZ

Petitioner,

v.

PAMELA BONDI, Attorney General of the
United States; KRISTI NOEM, Secretary,
United States Department of Homeland
Security; MICHAEL BERNACKE, Field
Director, Salt Lake City Office; TODD
LYONS, Acting Director; JOHN MATTOS,
Nevada Southern Detention Center,

Respondents.

Case No.

**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241**

1 Personal Information

2 1. (a) Humberto Perez

3 (b) Other names used:

4 2. Place of confinement:

5 (a) Nevada Southern Detention Center

6 (b) 2190 E Mesquite Avenue, Pahrump, NV 89048

7 (c) Case number or numbers: My Alien No. is 

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

10 4. I am currently being held in immigration detention despite an October
11 24, 2025 Order granting INA withholding.

12 Decision or Action You Are Challenging

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

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

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

18 (b) Docket number, case number, or opinion number: My Alien No.
19 is 

20 (c) Decision or action you are challenging: On October 24, 2025, the
21 immigration judge granted an INA withholding, and it appears the Government
22 filed an appeal with the BIA on November 6, 2025. The appeal is pending, and no
23 briefing dates have been set.

24 Mr. Perez was taken into custody by ICE on or about June 3, 2025, and has
25 been detained in ICE custody for 6 months.

26 Your Earlier Challenges of the Decision or Action

27 7-9. First, second, and third appeals: None

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

11. Appeals of immigration proceedings:

Does this case concern immigration proceedings? Yes

(a) Date you were taken into immigration custody: June 3, 2025

(b) Date of the removal or reinstatement order: October 24, 2025

(Order granting INA Withholding)

(c) Did you file an appeal with the Board of Immigration Appeals?

No

If "Yes," provide answers.

(1) Date of filing:

(2) Case number:

(3) Result:

(4) Date of result:

(5) Issues raised:

(d) Did you appeal the decision to the United States Court of

Appeals? No

If "Yes," provide answers.

(1) Name of court:

(2) Date of filing

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. Other appeals:

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

1 detention facilities in Nevada, including Nevada Southern Detention Center where
2 Petitioner is detained. Bernacke, in his official capacity, is a legal custodian of
3 Petitioner.

4 Todd Lyons is the Acting Director of ICE, which is responsible for
5 administering and enforcing immigration laws, including the detention and removal
6 of immigrants. Lyons, in his official capacity, is a legal custodian of Petitioner.

7 Kristi Noem is the Secretary of the Department of Homeland Security, which
8 oversees ICE. Noem, in her official capacity, is the ultimate legal custodian of
9 Petitioner.

10 Pam Bondi is the Attorney General of the United States. She oversees the
11 immigration court system, which is housed within the Executive Office for
12 Immigration Review (EOIR) and includes all immigration courts and the Board of
13 Immigration Appeals (BIA). She is named in her official capacity.

14 STATEMENT OF FACTS

15 Brief statement regarding immigration history and detention:

16 Humberto Perez is a citizen of Cuba who was detained by ICE on June 3,
17 2025. On October 24, 2025, the immigration judge granted an INA withholding, and
18 it appears the Government filed an appeal with the BIA on November 6, 2025, and
19 no briefing dates have been set. Mr. Perez has been detained in ICE custody for 6
20 months. During this time, ICE twice has attempted to remove him to Mexico,
21 without his consent. First, on November 9, 2025, and then on November 11, 2025.
22 Mr. Perez contacted undersigned counsel's office for assistance in filing this habeas
23 corpus petition. He does not read, write, and understand English sufficiently to file
24 this petition on his own. Counsel also understands that Mr. Perez suffered two
25 strokes in 2020 and 2023, which have caused partial paralysis to the right side of
26 his body. Since he has been in ICE custody, he has been hospitalized twice for what
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1 he described as a “brain bleed.” In a phone call with Mr. Perez last week, he told
2 counsel that he is experiencing pain on his right side.

4 LEGAL FRAMEWORK

5 I. Withholding of Removal under the Immigration and Nationality Act.

6 Noncitizens in removal proceedings have three primary forms of relief from
7 removal based on a fear of returning to their home country: asylum, withholding of
8 removal, and protection under the Convention Against Torture (CAT). An applicant
9 may be ineligible for asylum for several reasons such as failing to apply within one
10 year of entering the United States. *See* 8 U.S.C. § 1158(a)(2). There are fewer
11 restrictions on eligibility for withholding of removal under the INA, and no
12 restrictions on eligibility for deferral of removal under the CAT. *See* 8 U.S.C.
13 §1231(b)(3)(B); 8 C.F.R. § 1208.16.

14 To be granted INA withholding, an applicant must show that “his life or
15 freedom would be threatened in the country to which he would be removed on
16 account of one of the five protected grounds [race, religion, nationality, political
17 opinion, and membership in a particular social group].” *Boer-Sedano v. Gonzales*,
18 418 F.3d 1082, 1092 (9th Cir. 2005) (internal quotations omitted). The burden
19 required to win withholding of removal is higher than what is required to win
20 asylum. *See id.* When a noncitizen wins withholding of removal, the IJ
21 simultaneously enters a removal order to the person’s country of origin but
22 withholds that order with respect to the country of removal for which the noncitizen
23 established a likelihood of persecution. *See Johnson v. Guzman Chavez*, 594 U.S.
24 523, 531–532 (2021). The withholding grant and accompanying removal order
25 become final on the date they are issued if both parties waive appeal, or at the
26 conclusion of the 30-day period to file an appeal if no appeal is filed. 8 C.F.R. §
27

1 1241.1. A noncitizen who has been granted withholding cannot be removed to the
2 country for which they demonstrated a likelihood of persecution.

3 **II. Removal to a Third Country for Individuals Granted Withholding of** 4 **Removal**

5 **A. Statutory guidance on third country removals**

6 A noncitizen who has been granted withholding cannot be removed to the
7 country for which they demonstrated a likelihood of persecution. However, ICE can
8 arrange for removal to another country. This is known as a “third country” because
9 it is a country other than the one designated on the noncitizen’s removal order. *See*
10 8 C.F.R. § 1208.16(f). Specific criteria for identifying a third country for removal are
11 prescribed by statute. For example, the law provides that a noncitizen with a
12 removal order may be removed to a non-designated country of which the noncitizen
13 is a “subject, national or citizen.” 8 U.S.C. § 1231(b)(2)(D). ICE may also remove a
14 noncitizen with a removal order to the country from which they were admitted to
15 the U.S.; the country from which the noncitizen departed for the U.S. or a foreign
16 territory contiguous to the U.S.; a country in which the noncitizen resided before
17 entering the country from which they entered the U.S.; the noncitizen’s country of
18 birth; the country that had sovereignty over the place of birth at the time of birth;
19 the country in which the birthplace is located at the time of the removal order; and,
20 “if impracticable, inadvisable, or impossible to remove the [noncitizen] to each
21 country described [above],” ICE may remove a noncitizen to “another country whose
22 government will accept the [noncitizen] into that country.” 8 U.S.C. § 1231(b)(2)(E).

23 Notwithstanding the criteria for removal to a third country, ICE may not
24 remove a noncitizen to a country where the noncitizen’s life or freedom would be
25 threatened on the basis of the five protected grounds. 8 U.S.C. § 1231(b)(3)(A). The
26 Supreme Court has emphasized the importance of existing avenues of relief from
27 removal (such as applications for asylum, withholding of removal, and protection

1 under the convention against torture) for providing protection against removal to a
2 third country where a noncitizen would be in danger. *See Jama v. Immigr. &*
3 *Customs Enft*, 543 U.S. 335, 348 (2005) (“If aliens would face persecution or other
4 mistreatment in the country designated under § 1231(b)(2), they have a number of
5 available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A);
6 relief under an international agreement prohibiting torture, see 8 CFR §§
7 208.16(c)(4), 208.17(a) (2004); and temporary protected status, 8 U.S.C. §
8 1254a(a)(1)”); *see also A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1368 (2025) (recently
9 holding that non-citizens “must receive notice” that “they are subject to removal” to
10 a third country and that such notice must be provided “within a reasonable time
11 and in such a manner as will allow the[] [non-citizen] to actually seek . . . relief.”)
12 (quoting *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025)).

13 The government itself has previously acknowledged this limitation on
14 removal to a third country. In oral argument before the Supreme Court in *Johnson*
15 *v. Guzman Chavez*, 594 U.S. 523 (2021), the following exchange took place between
16 the then-Assistant to the Solicitor General, Vivek Suri, and Justice Kagan:

17 JUSTICE KAGAN: ...suppose you had a third country
18 that, for whatever reason, was willing to accept [a
19 noncitizen]. If...that [noncitizen] was currently in
20 withholding proceed--proceedings, you couldn't put him on
a plane to that third country, could you?

21 MR. SURI: We could after we provide the [noncitizen]
22 notice that we were going to do that.

23 JUSTICE KAGAN: Right.

24 MR. SURI: But, without notice –

25 JUSTICE KAGAN: So that's what it would depend on,
26 right? That – that you would have to provide him notice,
27 and if he had a fear of persecution or torture in that
country, he would be given an opportunity to contest his
removal to that country. Isn't that right?

1 MR. SURI: Yes, that's right.

2 JUSTICE KAGAN: So, in this situation, as to these
3 [noncitizens] who are currently in withholding
4 proceedings, you can't put them on a plane to anywhere
5 right now, isn't that right?

6 MR. SURI: Certainly, I agree with that, yes.

7 JUSTICE KAGAN: Okay. And that's not as a practical
8 matter. That really is, as -- as you put it, in the eyes of the
9 law. In the eyes of the law, you cannot put one of these
10 [noncitizens] on a plane to any place, either the -- either
11 the country that's referenced in the removal order or any
12 other country, isn't that right?

13 MR. SURI: Yes, that's right.

14 Transcript of Oral Argument at 20–21, *Johnson v. Guzman Chavez*, 594 U.S. 523
15 (2021).

16 **B. Trump Administration policies on third country removal**

17 Until recently, it was exceedingly rare that the government would pursue
18 removal to a third country for an individual granted INA withholding of removal or
19 CAT protection. This information is not routinely released by ICE, but data
20 obtained through a Freedom of Information Act request revealed that in fiscal year
21 2017, just 21 people who had been granted withholding of removal were removed to
22 a third country.¹ That is 1.6% of the people granted withholding that year. But,
23 based on the data, the individuals removed were not necessarily people who had
24 been granted withholding in 2017—just 21 people out of all the people with
25 withholding of removal grants in the U.S., granted at any time, were removed.

26 ¹ American Immigration Council, *The Difference Between Asylum and*
27 *Withholding of Removal*, at 7, https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf (last visited December 2, 2025).

1 Further, it's likely that some of those people had some form of permanent
2 immigration status in the country to which they were removed.

3 On March 30, 2025, Respondent Kristi Noem, the Secretary of the
4 Department of Homeland Security, issued guidance to ICE and other DHS agencies
5 regarding third country removals (March 30th Memo). This memo states that, prior
6 to a noncitizen's removal to a third country, "DHS must determine whether that
7 country has provided diplomatic assurances that aliens removed from the United
8 States will not be persecuted or tortured."² The memo continues that, where a
9 country has provided such assurances and the U.S. government believes them to be
10 credible, a noncitizen may be removed to that country "without the need for further
11 procedures."³ In other words, an individual may be removed without providing
12 notice or an opportunity to contest removal to that third country.

13 The March 30th memo also states that DHS will remove noncitizens even to
14 third countries that have not provided diplomatic assurances that noncitizens
15 deported from the U.S. will not be persecuted or tortured.⁴ In such cases, DHS will
16 inform the noncitizen of removal to the intended country but will not affirmatively
17 ask the noncitizen if they fear being removed to that country.⁵ DHS will refer any
18 noncitizen that affirmatively states a fear of removal to a third country to USCIS
19 for a screening for eligibility for withholding of removal and/or CAT protection as to
20 the intended third country.⁶ USCIS will then make a determination about whether
21 the noncitizen has established that they will "more likely than not be persecuted on
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24 ² P. Ex. 1 at 2.

25 ³ *Id.* at 2–3.

26 ⁴ *Id.* at 3.

27 ⁵ *Id.*

⁶ *Id.*

1 a statutorily protected ground or tortured in the country of removal.”⁷ If USCIS
2 determines that the noncitizen did not meet that burden, they will be removed.⁸ If
3 the noncitizen does make a showing to the satisfaction of USCIS, USCIS will notify
4 ICE, and the ICE Office of the Principal Legal Advisor (OPLA) may reopen
5 immigration court proceedings for the noncitizen to seek withholding or CAT
6 protection from removal to the third country.⁹ “Alternatively, ICE may choose to
7 designate another country for removal.”¹⁰ The memo provides no limitation on how
8 many times ICE could designate a new third country for removal upon a
9 noncitizen’s showing of a well-founded fear of removal to a particular country.

10 On July 9, 2025, Respondent Todd Lyons sent additional guidance to ICE
11 employees regarding third country removals (July 9th Directive).¹¹ The directive
12 was issued in light of the Supreme Court’s decision to stay the injunction in *D.V.D.*
13 *v. Department of Homeland Security*, No. 25-10676 (D. Mass.).¹² It reiterated the
14 procedures from the March 30th memo and provided additional details regarding
15 how to deal with third country removals to countries that have not provided credible
16 assurances that U.S. deportees will not be persecuted or tortured.¹³ It added that, in
17 such cases, an ICE officer will serve the noncitizen with a Notice of Removal
18 including the intended country and that the notice must be read in a language the
19 noncitizen understands.¹⁴ ICE “will generally wait at least 24 hours following
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21 ⁷ P. Ex. 1 at 3.

22 ⁸ *Id.*

23 ⁹ *Id.*

24 ¹⁰ *Id.*

25 ¹¹ P. Ex. 2.

26 ¹² *Id.* at 1.

27 ¹³ *Id.*

¹⁴ P. Ex. 2 at 1.

1 service of the Notice of Removal before effectuating removal” but that in “exigent
2 circumstances” ICE may remove a noncitizen to a possible-torture third country in
3 as little as six hours after service of the Notice of Removal “as long as the
4 [noncitizen] is provided reasonable means and opportunity to speak with an
5 attorney prior to removal.”¹⁵ Generally, if a noncitizen does not affirmatively state a
6 fear of persecution or torture within 24 hours of service of the Notice of Removal,
7 ICE may proceed with removal to the identified third country.¹⁶

8 **III. Detention of Noncitizens Granted Withholding of Removal**

9 **A. Statutory framework**

10 Section 1231 of the INA governs the detention of noncitizens during and
11 beyond the “removal period.” The removal period begins once a noncitizen’s removal
12 order becomes administratively final and lasts for 90 days, during which ICE “shall
13 remove the [noncitizen] from the United States” and “shall detain the [noncitizen]”
14 as it carries out the removal. 8 U.S.C. § 1231(a)(1)–(2). If ICE does not remove the
15 noncitizen within the 90-day removal period, the noncitizen “*may* be detained
16 beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added).

17 The Supreme Court considered the issue of indefinite detention under 8
18 U.S.C. § 1231(a)(6) in the case *Zadvydas v. Davis*, 533 U.S. 678 (2001). In that case,
19 the Court acknowledged that allowing a noncitizen to be detained indefinitely after
20 the statutory removal period would raise “serious constitutional concerns” and, as a
21 result, held that 8 U.S.C. § 1231(a)(6) contains an implicit time limit. *Id.* at 682.
22 The Court further held that 8 U.S.C. § 1231(a)(6) authorizes detention only for “a
23 period reasonably necessary to bring about the [noncitizen]’s removal from the
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26 ¹⁵ *Id.*

27 ¹⁶ *Id.* at 2.

1 United States” and that six months of detention after the removal order is final is
2 “presumptively reasonable.” *Id.* at 689, 701.

3 Importantly, the *Zadvydas* court did not say the presumption is irrebuttable,
4 and a variety of courts across the country that have considered the issue have found
5 the presumption of reasonableness during the first six months of post-removal order
6 detention can be rebutted. *See Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO),
7 2025 WL 1750346, at *5 (D.N.J. June 24, 2025) (analyzing the issue and collecting
8 cases). “Within the six-month window,” the noncitizen bears the burden of
9 “prov[ing] the unreasonableness of detention.” *Cesar v. Achim*, 542 F. Supp. 2d 897,
10 903 (E.D. Wis. 2008). After six months, there is “good reason to believe that there is
11 no significant likelihood of removal in the reasonably foreseeable future,” and the
12 burden shifts to the government to justify continued detention. *Zadvydas*, 533 U.S.
13 at 701. “Whether detention is ‘reasonably necessary to secure removal is
14 determinative of whether the detention is, or is not, pursuant to statutory
15 authority.... The basic federal habeas corpus statute grants the federal courts
16 authority to answer that question.” *Medina v. Noem, et al., Respondents*, No. 25-
17 CV-1768-ABA, 2025 WL 2306274, at *6 (D. Md. Aug. 11, 2025) (citing *Zadvydas*,
18 533 U.S. at 699).

19 **B. DHS Regulations**

20 DHS regulations provide that, before the end of the 90-day removal period,
21 the local ICE field office with jurisdiction over the noncitizen’s detention must
22 conduct a custody review to determine whether the noncitizen should remain
23 detained. *See* 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released
24 at the end of the removal period or in the three months that follow, jurisdiction
25 transfers to ICE headquarters (ICE HQ), which must conduct a custody review
26 before or at 180 days. 8 C.F.R. § 241.4(c)(2), (k)(2)(ii).

27

1 To comply with *Zadvyas*, DHS issued additional regulations in 2001 that
2 established “special review procedures” to determine whether detained noncitizens
3 with final removal orders are likely to be removed in the reasonably foreseeable
4 future. *See Continued Detention of Aliens Subject to Final Orders of Removal*, 66
5 Fed. Reg. 56, 967 (Nov. 14, 2001). Subsection (i)(7) was added to 8 C.F.R. § 241.4,
6 which added a supplemental review procedure that ICE HQ must initiate when “the
7 [noncitizen] submits, or the record contains, information providing a substantial
8 reason to believe that removal of a detained [noncitizen] is not significantly likely in
9 the reasonably foreseeable future.” 8 C.F.R. § 241.4(i)(7). Under this procedure, ICE
10 HQ evaluates the foreseeability of removal by analyzing factors such as the history
11 of ICE’s removal efforts to third countries. *See* 8 C.F.R. §241.13(f). If ICE HQ
12 determines that removal is not reasonably foreseeable but nonetheless seeks to
13 continue detention based on “special circumstances,” it must justify the detention
14 based on narrow grounds such as national security or public health concerns or by
15 demonstrating by clear and convincing evidence before an IJ that the noncitizen is
16 “specially dangerous.” 8 C.F.R. § 241.14(b)–(d), (f).

17 C. ICE Policy

18 Consistent with the statutory and regulatory scheme, long-standing ICE
19 policy favors the prompt release of noncitizens who have been granted withholding
20 or CAT relief. In 2000, the then-Immigration and Naturalization Service (INS)¹⁷
21 General Counsel issued a memorandum clarifying that 8 U.S.C. § 1231 authorizes
22 but does not require the detention of noncitizens granted withholding of removal or
23 CAT relief during the 90-day removal period.¹⁸ A 2004 ICE memorandum turned
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26 ¹⁷ INS, housed within the Department of Justice, became ICE after the
formation DHS in 2002.

27 ¹⁸ P. Ex. 3 at 2.

1 this acknowledgment of authority into a presumption, stating that “it is ICE policy
2 to favor the release of [noncitizens] who have been granted protection relief by an
3 immigration judge, absent exceptional concerns such as national security issues or
4 danger to the community and absent any requirement under law to detain.”¹⁹ ICE
5 leadership subsequently reiterated this policy in a 2012 announcement, clarifying
6 that the 2000 and 2004 ICE memorandums are “still in effect and should be
7 followed” and that “[t]his policy applies at all times following a grant of protection,
8 including during any appellate proceedings and throughout the removal period.”²⁰
9 Finally, in 2021, Acting ICE Director Tae Johnson circulated a memorandum to all
10 ICE employees reminding them of the “longstanding policy” that “absent
11 exceptional circumstances, . . . noncitizens granted asylum, withholding of removal,
12 or CAT protection by an immigration judge should be released. . . .”²¹ Director
13 Johnson clarified that “[i]n considering whether exceptional circumstances exist,
14 prior convictions alone do not necessarily indicate a public safety threat of danger to
15 the community.”²²

16 On February 18, 2025, ICE issued a directive to agents encouraging them to
17 seek to re-detain noncitizens with final removal orders who had been previously
18 released from custody for the purpose of removal to previously recalcitrant countries
19 of origin, or to third countries.²³ The directive did not provide justification as to why
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23 ¹⁹ P. Ex. 3 at 3.

24 ²⁰ *Id.* at 4.

25 ²¹ *Id.* at 5.

26 ²² *Id.*

27 ²³ P. Ex. 4, *see* Immigration Policy Tracking Project,
<https://immpolicytracking.org/policies/ice-directs-review-on-non-detained-docket-for-redetention-and-removal/#/tab-policy-documents> (last visited 12/2/2025).

1 detention of noncitizens complying with orders of supervision would be necessary to
2 effectuate removal to country of origin or otherwise.

3
4 **GROUND FOR RELIEF**

5 **Ground One: ICE’s policy to remove noncitizens to a third country with no**
6 **notice or opportunity to seek fear-based protection constitutes arbitrary**
7 **and capricious agency action in violation of the Administrative Procedure**
8 **Act, 5 U.S.C. § 706.**

9 The APA entitles “a person suffering legal wrong because of agency action, or
10 adversely affected or aggrieved by agency action . . . to judicial review.” 5 U.S.C. §
11 702. Further, the APA compels a reviewing court to “hold unlawful and set aside
12 agency action, findings, and conclusions found to be . . . arbitrary [or] capricious, . . .
13 otherwise not in accordance with law,” *id.* § 706(2)(A), or “short of statutory right,”
14 *id.* § 706(2)(C). The APA also compels a reviewing court to “hold unlawful and set
15 aside agency action, findings, and conclusions found to be . . . without observance of
16 procedure required by law.” 5 U.S.C. § 706(2)(D).

17 Petitioner has a due process right to meaningful notice and opportunity to
18 present a fear-based claim to an immigration judge before DHS deports him to a
19 third country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Aden v.*
20 *Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Petitioner also has a due
21 process right to implementation of a process or procedure to afford these
22 protections. *See, e.g., McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 491 (1991).
23 Respondents, however, have adopted a policy—set forth in their March 30th memo
24 and July 9th directive—that is arbitrary and capricious and deprives Petitioner of
25 meaningful notice and an opportunity to present a fear-based claim to an
26 immigration judge prior to his deportation to a third country.²⁴ Moreover,

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²⁴ *See* P. Exs. 1 and 2.

1 Respondents' policy also violates the INA and implementing regulations which
2 mandate that Respondents refrain from removing Petitioner, and similarly situated
3 individuals, to a third country where they will likely be persecuted or tortured, thus
4 requiring Respondents to provide meaningful notice of deportation to a third
5 country and the opportunity to present a fear-based claim to an immigration judge
6 before deporting an individual to a third country. In this case, the March 30th
7 memo and July 9th directive and Respondents recent actions in this case and
8 others, demonstrate Respondents do not intend to observe those protections.²⁵

9 The APA empowers federal courts to "compel agency action unlawfully
10 withheld or unreasonably delayed." 5 U.S.C. § 706(1). The Court should hold that
11 Respondents' actions and policy are unlawful and compel that—before any attempt
12 is made to deport him to a third country—Petitioner be provided with meaningful
13 notice and opportunity to present a fear-based claim to an immigration judge.

14
15 **Ground Two: Petitioner's continuing detention solely on the basis of**
16 **facilitating third country removal pursuant to recent ICE policy violates**
17 **the Due Process Clause of the Fifth Amendment.**

18 To the extent that Petitioner's continued detention is meant to facilitate his
19 removal to a third country, his detention is unlawful because, as argued in Ground
20 Four (incorporated here by reference), ICE's procedure for third country removal is
21 arbitrary and capricious and does not comply with due process. Continuing
22 detention solely for the purpose of facilitating an unconstitutional removal renders
23 his current custody unconstitutional. Accordingly, this Court should order
24 Petitioner's immediate release.

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26 ²⁵ See also Lunga Masuku, Eswatini government faces court challenge for
27 accepting US deportees, THE GUARDIAN (Aug. 22, 2025),
<https://www.reuters.com/world/africa/eswatini-government-faces-court-challenge-accepting-us-deportees-2025-08-22/>.

PRAYER FOR RELIEF

Accordingly, Humberto Perez respectfully requests that this Court:

1. Issue a writ of habeas corpus to have Humberto Perez brought before the Court so that he may be discharged from his unconstitutional confinement;

2. Conduct an evidentiary hearing at which proof may be offered concerning the allegations in this amended petition and any defenses that may be raised by respondents; and

3. Grant such other and further relief as, in the interests of justice, may be appropriate.

Dated: 12/2/2025

Rene L. Valladares
Federal Public Defender

/s/ Sylvia Irvin
Sylvia Irvin
Assistant Federal Public Defender
*Filed with the verbal permission of
and on behalf of Humberto Perez

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States of America and the State of Nevada that the facts alleged in this petition are true and correct to the best of counsel's knowledge, information, and belief.

Dated December 2, 2025.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Sylvia Irvin

Sylvia Irvin
Assistant Federal Public Defender