

THE HONORABLE LAUREN KING
THE HONORABLE THERESA L. FRICKE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GUO XIN ZHENG,

Petitioner,

vs.

PAMELA BONDI, Attorney General of
the United States; KRISTI NOEM,
Secretary, United States Department of
Homeland Security; LAURA
HERMOSILLO, Acting 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. CV25-2483-LK-TLF

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

PRELIMINARY MATTERS

“Congress has clearly indicated that habeas petitioners are entitled to a prompt ruling” on their petition. *Mejia v. Hermosillo*, No. CV25-02196, 2025 WL 3173842, at *1 (W.D. Wash. Nov. 13, 2025).

Petitioner Guo Xin Zheng asks this Court to order Respondents not to remove him from this district while this case is pending, both “[b]ecause transfer of Petitioner to another district could interfere with his access to counsel and ability to participate in the proceedings,” *Tran v. Bondi, et al.*, No. CV25-1897-JLR-BAT, Dkt. 6 at 3 (W.D. Wash. Oct. 7, 2025) (*sua sponte* issuing such an order in a § 2241 case involving an Immigration and Customs Enforcement [*hereinafter* “ICE”] detainee), and “under the

Court's inherent power to preserve its ability to hear the case." *Alves v. U.S. Dep't of Just.*, No. EP-25-CV-306-KC, 2025 WL 2629763, at *5 (W.D. Tex. Sept. 12, 2025) (same). *See also M.M. v. Wamsley*, No. CV25-2074-TMC, 2025 WL 3053023, at *1 (W.D. Wash. Oct. 31, 2025) (same).¹

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Guo Xin Zheng
- (b) Other names used: No
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 ICE Field Office Director at Seattle, Washington.
- (c) Case number or numbers [ICE file number, if known]: Mr. Zheng's A# has been provided to the government along with the filing of this petition.
3. Petitioner is currently being held on orders by federal authorities: United States Immigration and Customs Enforcement (ICE).
4. Petitioner is currently being held on an immigration charge.

Decision or Action You Are Challenging

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

¹ For just a few examples of other courts issuing such an order in § 2241 cases involving ICE detainees within the past few months (or reflecting the court had previously issued such an order), *see, e.g., Bustos v. Raycraft*, No. 25-13202, 2025 WL 3022294, at *2 (E.D. Mich. Oct. 29, 2025); *Ferro v. Hyde*, No. CV25-513-SDN, 2025 WL 3003708, at *1 (D. Me. Oct. 27, 2025) (order issued same day petition was filed); *Lopez Pop v. Noem*, No. CV25-2589-SSS-SSC, 2025 WL 3050095, at *7 (C.D. Cal. Oct. 3, 2025); *Singh v. Delaney Hall*, No. CV25-16018-GC, 2025 WL 2772644, at *1 (D.N.J. Sept. 29, 2025); *Hom v. Ceja*, No. CV25-2221-WJM-TPO, 2025 WL 2801449, at *2 (D. Colo. Sept. 17, 2025).

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 (ICE)

(b) Docket number, case number, or opinion number: Mr. Zheng's A# has been provided to the government along with the filing of this petition.

(c) Decision or action you are challenging: An Immigration Judge (IJ) ordered Mr. Zheng removed, but granted withholding of removal under the Immigration and Nationality Act (INA), on September 15, 2025. *See* Dkt. 8-8 (IJ Order submitted with Respondents' return to original petition). This order prohibits ICE from removing Mr. Zheng to the People's Republic of China [*hereinafter* "China"], his country of citizenship. Mr. Zheng was in custody when this order was entered and ICE has kept him in custody ever since, over four-and-a-half months. During that time, ICE officers have provided Mr. Zheng with English language documents that he cannot read. It appears ICE has taken no other concrete actions to attempt to lawfully remove Mr. Zheng to a third country.

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: None

Does this case concern immigration proceedings? Yes

(a) Date you were taken into immigration custody: Respondents took Mr. Zheng into custody on December 3, 2024—apparently under a newly issued administrative arrest warrant (rather than revocation of his pre-removal order release from immigration custody). Mr. Zheng has remained in immigration custody since that date, including the over four-and-a-half months since September 15, 2025, when an IJ issued a removal order and granted withholding of removal in his case.

(b) Date of the removal or reinstatement order: September 15, 2025

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

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

12. Other than the appeals listed above, have you filed any other petition, application, or motion about the issues raised in this petition? Mr. Zheng filed a pro se petition in this same case number. After the appointment of counsel, and with the consent of counsel for the Respondents, he asks to amend that petition here.

Grounds for Your Challenge in This Petition

I. Introduction

Petitioner Guo Xin Zheng is presently detained at the Northwest ICE Processing Center (NWIPC). He has been held in immigration custody for over four-and-a-half months (nearly five months) since an IJ ordered his removal and granted INA withholding of removal, and has been in continuous immigration detention for well over a year (both pre- and post-order). Removal to Mr. Zheng's country of citizenship is not reasonably foreseeable, as his removal to China has been withheld pursuant to 8 U.S.C. § 1231(b)(3)² (INA asylum withholding). No apparent meaningful efforts have been made or are in progress to lawfully remove Mr. Zheng to a third country. Therefore, Respondents' continued detention of Mr. Zheng violated due process and exceeds their authority under the statute as interpreted in *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).

Mr. Zheng seeks (a) release; (b) an order preventing re-detention unless the government establishes by clear and convincing evidence at a hearing before a neutral decisionmaker that re-detention is warranted based on changed circumstances after release by ICE; (c) an order preventing removal to a third country without notice and

² 8 U.S.C. § 1231 is the enacted code of INA § 241, cited in the IJ's Order. *See* Dkt. 8-8 at 12.

1 meaningful opportunity to respond in compliance with the statute and due process in
2 reopened removal proceedings; and (d) an order barring removal to any third country
3 pursuant to Respondents' punitive removal policy.

4 **II. Jurisdiction and Venue**

5 This case arises under federal law—primarily the Constitution of the United
6 States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*.

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

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

15 Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because
16 Respondents are agencies or officers of agencies of the United States; Respondents
17 Hermosillo and Scott reside in this district; and Mr. Zheng is detained in this district.
18 Venue is further proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the
19 events or omissions giving rise to Mr. Zheng's claims occurred in this district.

20 Because Mr. Zheng is seeking relief related only to his custody status, which is
21 not inconsistent with an order of removal, exhaustion of administrative remedies, if any,
22 is not required.

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

24 Mr. Zheng is “in custody” for the purpose of § 2241 because he has been
25 detained by Respondent ICE in Tacoma, Washington, for over a year, including for
26

1 months since entry of a removal order and grant of withholding of removal on
2 September 15, 2025.

3 **IV. Parties**

4 Guo Xin Zheng is a citizen of China. On September 15, 2025, an IJ ordered Mr.
5 Zheng removed to China but also granted asylum withholding of removal to China
6 under the INA. Mr. Zheng has remained detained since that date in the control and
7 custody of Respondents at NWIPC. As such, Mr. Zheng is a resident of Tacoma,
8 Washington.

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

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

15 Respondent Laura Hermosillo is the Field Office Director for ICE Enforcement
16 and Removal Operations (“ERO”) in Seattle, Washington. As the ERO Seattle Field
17 Office Director, she is Mr. Zheng’s immediate custodian, responsible for his detention
18 at NWIPC, and is the person with the authority to authorize detention or release.
19 Respondent Hermosillo is sued in her official capacity. Respondent Hermosillo was the
20 Respondent named in Mr. Zheng’s original petition. All other respondents are added in
21 this amended petition.

22 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
23 functioning of the NWIPC, and has immediate physical custody of Mr. Zheng pursuant
24 to a contract with ICE to detain noncitizens. Respondent Scott is sued in his official
25 capacity as the Warden of a federal detention facility. *See Juarez v. Asher*, No. CV20-
26 700, 2021 WL 1946222, at *3–5 (W.D. Wash. May 14, 2021).

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

5 **V. Background**

6 Mr. Zheng is a citizen of China and spent much of his life there. However, Mr.
7 Zheng endured persecution for [REDACTED]. *See* Dkt. 8-8
8 at 7–9. He fled and arrived in the United States in 2023, where immigration officers
9 promptly detained him. Mr. Zheng claimed asylum and was held initially held in
10 custody, but then released on an order of supervision while his immigration case was
11 pending. *See* Dkt. 7 at 2 (Declaration of Anthony Rosa).³ Mr. Zheng submitted a formal
12 application for asylum and withholding in June of 2023. *Id.* at 2.

13 In March 2024, Mr. Zheng was arrested and charged with a theft-related offense
14 in New Hampshire. He pled guilty to a theft offense on December 3, 2024, and was
15 given a sentence that practically amounted to time served. *Id.* at 2–3. The next day, ICE
16 issued a new administrative arrest warrant and took Mr. Zheng into immigration
17 custody pursuant to that warrant, apparently without formally revoking or allowing Mr.
18 Zheng to be heard on revocation of his previous order of release and supervision. *Id.*
19 at 3. On May 30, 2024, ICE transferred Mr. Zheng to the NWIPC in Tacoma, *id.*, on the
20 opposite coast from his community and family supports.

21 For the next several months, Mr. Zheng awaited resolution of his immigration
22 case. His community was able to support him to retain an attorney to assist him during
23 these removal proceedings. The IJ held a hearing regarding Mr. Zheng’s application for
24

25 ³ There appears to be a small typo, not relevant to the arguments in this amended
26 petition, in paragraph 6 of this declaration. On information and belief (and as evidenced
by the remainder of the declaration), Mr. Zheng was first released from immigration
custody in March of 2023, rather than March of 2024.

1 relief from removal on September 11, 2025. *See* Dkt. 8-8 at 2. Mr. Zheng was assisted
2 by a Mandarin interpreter during this hearing. Mandarin is Mr. Zheng's first language.
3 He has minimal understanding of English. *See* Declaration of Mr. Zheng at 1. After
4 hearing and reviewing evidence, the IJ issued an order in Mr. Zheng's case. The IJ
5 ordered Mr. Zheng removed to China, denied his application for asylum, but granted his
6 application for asylum withholding. *See generally* Dkt. 8-8.

7 Mr. Zheng learned of this order from his sister. Mr. Zheng's attorney had been
8 retained for removal proceedings only. Mr. Zheng does not recall any consultation or
9 conversation regarding any appeal of the IJ's order. *See* Declaration of Mr. Zheng at 2.
10 And neither Mr. Zheng nor ICE filed any appeal. *See* Dkt. 3; Ex. 1 (Executive Office
11 for Immigration Review case look-up). Mr. Zheng has remained detained continuously
12 since entry of the IJ's order.

13 **VI. Particularized Facts Pertaining to Mr. Zheng's Continued Detention**

14 Respondents cannot remove Mr. Zheng to China because the IJ explicitly
15 ordered that his removal to China be withheld pursuant to 8 U.S.C. § 1231(b)(3).
16 Removal to China is thus not reasonably foreseeable. Respondents are prohibited from
17 seeking a travel document from China for Mr. Zheng and have not provided evidence of
18 a travel document for any other country. Upon information and belief, no country has
19 agreed to accept Mr. Zheng.

20 In October 2025, and again in November 2025, ICE officers contacted Mr.
21 Zheng about potential third-country removal. Mr. Zheng recalls no interpreter during
22 these interactions to assist him.⁴ He did not have a good understanding of what was
23 said. The ICE officers gave Mr. Zheng a booklet, but it was in English and he could not
24

25 ⁴ Mr. Zheng later sought out an ICE officer who spoke some Mandarin for assistance,
26 but gained no greater details or greater understanding of the process for potential third-
country removal from these conversations. *See* Declaration of Mr. Zheng at 2.

1 read it. Mr. Zheng does not recall ever being asked to fill out paperwork for travel
2 documents or to designate a particular third country of his choice for removal. He did
3 not understand that ICE officers wanted him to purchase a plane ticket for himself. And
4 in any event, he lacks the financial means to do so. *See* Declaration of Mr. Zheng at 2–
5 3.⁵

6 Indeed, Mr. Zheng and his supporters in the community could not even afford to
7 pay for help from his prior immigration attorney to address his ongoing detention.
8 Instead, Mr. Zheng filed a pro se habeas petition in December 2025. *See* Dkt. 1–3. He
9 had no attorney nor qualified interpreter to assist him with this. *See* Declaration of Mr.
10 Zheng at 2, Dkt. 1, 3 (originally filed pro se petition).

11 In January, ICE officers met with Mr. Zheng again. For this meeting, Mr. Zheng
12 recalls a telephonic interpreter was used, but the quality of the translation (or perhaps
13 the phone connection) was poor. The ICE officers met with him and other detainees one
14 after another. They told him to sign paperwork, but the paperwork was written in
15 English and he could not read it. He does not know what he signed during that meeting,
16 but understood it to be only about release from custody. Mr. Zheng remembers officers
17 telling him during this meeting that he could apply for release at 90 days and could try
18 again at 180 days. But he did not understand how to make such an application or the
19 meaning of these timelines. He does not recall any action or follow-up toward removal
20 to a third country during this meeting. *See* Declaration of Mr. Zheng at 3.

21 In their return to Mr. Zheng’s original petition, Respondents submitted a
22 declaration from Deportation Officer Anthony Rosa. *See* Dkt. 7. In that declaration, the
23 only actions that Officer Rosa states Respondents have taken to try to lawfully remove
24 Mr. Zheng to a third country are to hand Mr. Zheng a list of “visa-free” countries for
25 people with Chinese passports, and to tell him (apparently in English) that he could go
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⁵ *See also* Application to Proceed in Forma Pauperis, filed with this amended petition.

1 to one of these countries if he could purchase his own ticket there. *Id.* at 3–4. This
 2 occurred most recently on November 4, 2025, *id.* at 4, over three months ago. Officer
 3 Rosa asserts in his declaration signed January 14, 2026, that “DHS continues to pursue
 4 Petitioner’s removal from the United States to a third country, a country other than
 5 China. These efforts remain ongoing at the time of this writing.” *Id.* at 4. Yet
 6 Respondents have not identified any other action they are taking or have taken in
 7 furtherance of these “efforts” to remove Mr. Zheng to a third country.

8 Furthermore, the actions to date are inconsistent with the required procedure for
 9 third-country removal. As detailed below in section IX, the INA requires immigration
 10 authorities to follow a specific sequence to lawfully remove a noncitizen to a third
 11 country. The law commands that:

12 (1) An alien shall be removed to the country of his choice (subparagraphs
 13 (A) to (C)), unless one of the conditions eliminating that command is
 14 satisfied; (2) otherwise he shall be removed to the country of which he is
 15 a citizen (subparagraph (D)), unless one of the conditions eliminating that
 16 command is satisfied; (3) otherwise he shall be removed to one of the
 17 countries with which he has a lesser connection (clauses (i) to (vi) of
 subparagraph (E)); or (4) if that is ‘impracticable, inadvisable, or
 impossible,’ he shall be removed to ‘another country whose government
 will accept the alien into that country’ (clause (vii) of subparagraph (E)).

18 *Jama v. Immigr. & Customs Enf’t*, 543 U.S. 335, 341 (2005) (quoting and summarizing
 19 8 U.S.C. § 1231(b)(1)(C)).

20 Here, however, Respondents have indicated they did not ask Mr. Zheng to
 21 designate a country of his choice for removal, nor follow any of the ensuing steps
 22 required by the statute. Instead, they seemingly tried to encourage him to voluntarily
 23 depart (telling him he would have to buy his own plane ticket) to only a list of countries
 24 Respondents identified as “visa-free” (likely meaning they allow tourists or other short-

1 term travelers without a pre-approved visas⁶). *See* Dkt. 7 at 3–4. Respondents have not
 2 spoken with Mr. Zheng about third-country removal using a qualified interpreter.
 3 Respondents have not asked Mr. Zheng to designate a third country of his choice (the
 4 first step required under the statute). And there is no indication that Respondents have
 5 contacted a single third country to see if they would accept Mr. Zheng or that
 6 Respondents have located or confirmed the status of Mr. Zheng’s passport (his most
 7 basic travel document) in any event.

8 Despite the law regarding third-country removal (discussed below), undersigned
 9 counsel is aware from cases handled by colleagues that Respondents have frequently
 10 attempted to deport people to Mexico when they could not be removed to their
 11 countries of citizenship. Evidence submitted in other cases indicates that when ICE
 12 proposes Mexico as a third-country destination, Mexico often has not formally accepted
 13 the deportee, will not accept any deportee who is unwilling to go there, and does not
 14 necessarily give status to those who enter. *See* Ex. 2 (Email from Jennifer Wong); Ex. 3
 15 (Decl. of Martin Parsons, Case No. 3:25-cv-02866-JES-VET (S.D. Cal.)); Ex. 4 (Decl.
 16 of Zandra Lopez); Ex. 5 (Decl. of Carlos Alberto Izquierdo-Matos); Ex. 6 (Decl. of
 17 Miguel Tan-Guittierrez); Ex. 7 (Decl. of José M. Ruiz); Ex. 8 (Decl. of Irma Arteaga).
 18 There is no evidence that Respondents will be able to lawfully remove Mr. Zheng to a
 19 third country in the reasonably foreseeable future nor that any efforts to do so lawfully
 20 are actually underway.

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 22
 23
 24 ⁶ *See, e.g.*, Global Allianz Law Firm, LLP, *VISA Free Countries for US Citizens*,
 25 <https://globalallianz.org/visa-free-countries-for-us-citizens/> (last visited Feb. 4, 2026);
 26 CS Global Partners, *Difference Between Visa-Free Travel and Visas on Arrival*,
<https://csglobalpartners.com/news/difference-between-visa-free-travel-and-visas-on-arrival/>
 (last visited Feb. 4, 2026) (both using the term to refer to countries admitting
 short-term travelers for a limited duration of time without a pre-approved visa).

VII. The Legal Framework Regarding Indefinite Detention Pending Removal

A. Detention is unconstitutional when there is not a significant likelihood of removal in the reasonably foreseeable future.

Under 8 U.S.C. § 1231, detention of noncitizens who have been ordered removed is mandatory during the so-called 90-day “removal period.” 8 U.S.C. § 1231(a)(1)(A). This period begins on the “date the order of removal becomes administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). But the *Zadvydas* Court believed that a “serious constitutional threat” under the Fifth Amendment’s Due Process Clause was posed by the indefinite detention of noncitizens. 533 U.S. at 699. The Court therefore interpreted 8 U.S.C. 1231(a)(6) to permit only detention related to the statute’s “basic purpose [of] effectuating [a noncitizen]’s removal[.]” *Id.* at 696–99.

The Court further held that the presumptive period during which the detention is reasonably necessary to effectuate a noncitizen’s removal is six months. After that, detention is not presumed reasonable, and the noncitizen should be given conditional release if there is “no significant likelihood of removal in the reasonably foreseeable future[.]” *Id.* at 701. After the “presumptively reasonable” period of six months, when the noncitizen can “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” then “the Government must respond with evidence sufficient to rebut that showing.” *Id.*

The issue is not whether Respondents have been able to remove some individuals to a given country. Rather, the court must make an individualized analysis as to a particular detainee. *See Nguyen v. Scott*, 796 F.Supp.3d 703, 726 (W.D. Wash. Aug. 21, 2025) (stating increase in total number of removals to petitioner’s country of citizenship, including some people who were similarly situated, fails to rebut the evidence presented by the petitioner there that “his individual circumstances make removal unlikely.”). Facts that are part of the analysis include whether Respondents provide evidence that a request or requests were submitted to the country of removal,

1 whether that country acknowledged receipt of the request or otherwise responded to the
2 request, and the anticipated wait time for a response.

3 Furthermore, the six-month grace period is only “*presumptively* reasonable.”
4 *Zadvydas*, 533 U.S. at 701 (emphasis added). Indeed, the Court clarified that *Zadvydas*
5 “did not hold that the statute authorizes detention until it approaches constitutional
6 limits; it held that, since interpreting the statute to authorize indefinite detention (one
7 plausible reading) would approach constitutional limits, the statute should be read (in
8 line with the other plausible reading) to authorize detention *only for a period consistent*
9 *with the purpose of effectuating removal.*” *Clark v. Martinez*, 543 U.S. 371, 384
10 (2005) (citing *Zadvydas*, 533 U.S., at 697–699) (emphasis added). The Court
11 specifically rejected the government’s argument that it could hold certain noncitizens
12 until detention approached constitutional limits, and instead made clear that the statute
13 does not allow detention once removal is not reasonably foreseeable. *Id.* at 383.

14 Multiple courts have thus concluded that a noncitizen may rebut that
15 presumption of reasonableness during the first six months of post-order detention with
16 sufficiently compelling evidence that his removal is not foreseeable. The Honorable
17 Cormac J. Carney explained in *Trinh v. Homan* that “[t]he central holding of *Zadvydas*
18 is that section 1231(a)(6) does not permit detention beyond the initial 90-day removal
19 period when removal is not reasonably foreseeable. . . . At no point did the *Zadvydas*
20 Court preclude a noncitizen from challenging their detention before the end of the
21 presumptively reasonable six-month period.” 466 F. Supp. 3d 1077, 1092 (C.D. Cal.
22 2020) (citing *Zadvydas*, 533 U.S. at 699-700). Other courts have reached the same
23 conclusion. *See, e.g., Cesar v. Achim*, 542 F. Supp. 2d 897, 904–05 (E.D. Wis. 2008),
24 *called into doubt on other grounds by Pearson v. Callahan*, 555 U.S. 223 (2009) (“In
25 creating the presumption [in *Zadvydas*], the Supreme Court could not have been
26 condoning detention of an alien where removal is not reasonably foreseeable, as long as

1 it occurred in the first six months. The Court would then be authorizing unconstitutional
2 conduct, which it presumably does not have the power to do. Rather the Court merely
3 recognized the practical necessity of according deference to the Executive Branch
4 determinations of what constitutes ‘reasonably foreseeable’ in the early stages of
5 removal, and therefore placed the burden of proving unreasonableness on the
6 detainee.”); *Ali v. Dep’t of Homeland Sec.*, 451 F. Supp. 3d 703, 708 (S.D. Tex. 2020)
7 (“Whereas the *Zadvydas* Court established a presumption that detention that exceeded
8 six months would be unconstitutional, it did not require a detainee to remain in
9 detention for six months or to prove that the detention was of an indefinite duration
10 before a habeas court could find that the detention is unconstitutional. Because the
11 purpose of Petitioner’s detention is no longer possible in the foreseeable future, his
12 continued detention is unreasonable, and thus, unauthorized by § 1231(a)(6), as
13 interpreted by the Supreme Court.”)

14 **B. The six-month presumptively reasonable period runs from the final**
15 **removal order, regardless of whether a noncitizen was detained**
16 **during that period.**

17 As it pertains to Mr. Zheng’s request for an order preventing his unlawful re-
18 detention (should the Court grant his first request for release), the six-month
19 presumptively reasonable period runs unabated once a noncitizen’s removal order was
20 final, and does not run solely during any period when the noncitizen was detained. In
21 *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462 (W.D. Wash. Nov. 10, 2025),
22 the Honorable James L. Robart held that the petitioner’s “*Zadvydas* grace period ended
23 six months following the entry of the order of his removal[.]” *Id.* at *3. The court
24 reached that conclusion even though the petitioner was not detained until two years
25 later, and Respondents argued that only five months of the *Zadvydas* six-month period
26 had expired, based on the times when petitioner was detained. *See Tran*, No. C25-
01897-JLR, dkt. 13, Resp’t Return Mem. and Mot. to Dismiss at 1, 7 (Oct. 27, 2025).

1 *See also, e.g., Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at *3 (D.N.J. June
 2 13, 2025) (finding that “six-month detention period under *Zadvydas*” began upon
 3 affirmance of the removal order, rejecting an argument that the petitioner could not
 4 obtain habeas relief because he had not yet been in detention for six months); *Bailey v.*
 5 *Lynch*, No. CV16-2600 (JLL), 2016 WL 5791407, at *2 (D.N.J. Oct. 3, 2016) (where
 6 order of removal became effective upon the petitioner’s release from underlying
 7 conviction to ICE authorities, after which he was held only “briefly” before being
 8 released on an order of supervision, the *Zadvydas* presumptively reasonable period
 9 ended “long before he was taken back into custody[.]”).

10 A contrary view would run afoul of *Zadvydas*’s reasoning. *Zadvydas* established
 11 the six-month grace period to give ICE a chance to reasonably effectuate the removal
 12 before a court gets involved. 533 U.S. at 700–01. That was why the Court chose to
 13 expand the grace period beyond the 90-day statutory removal period: because Congress
 14 likely did not “believe[] that all reasonably foreseeable removals could be accomplished
 15 in that time.” *Id.* at 701. Giving the government time to remove a noncitizen does not
 16 require that the individual be detained for all of that period. ICE can just as effectively
 17 take steps to arrange an individual’s removal whether he is in a cell or in the
 18 community.

19 **VIII. The Law Pertaining to a Noncitizen’s Procedural Due Process Right Not to Be**
 20 **Re-detained Absent a Hearing Establishing that the Individual Is Either a Flight**
 21 **Risk or a Danger to the Community**

22 Mr. Zheng seeks an injunction against future re-detention without pre-
 23 deprivation notice and a hearing. Mr. Zheng therefore includes the following
 24 discussion, even though he does not raise a claim in this petition that his current post-
 25 removal order detention was a result of an illegal re-detention, because it is a necessary
 26 prerequisite to seeking that injunction.

1 Procedural due process requires notice and an opportunity to be heard. *Mathews*
 2 *v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural
 3 due process rights, a petitioner must establish (1) a protected property or liberty interest,
 4 and (2) a denial of adequate procedural protections. *ASSE Int’l, Inc. v. Kerry*, 803 F.3d
 5 1059, 1073 (9th Cir. 2015). The Court must also consider “the Government’s interest,
 6 including the function involved and the fiscal and administrative burdens that the
 7 additional or substitute procedural requirement would entail.” *Rodriguez Diaz v.*
 8 *Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022) (quoting *Mathews*, 424 U.S. at 335).

9 Mr. Zheng’s interest in not being detained is “the most elemental of liberty
 10 interests[.]” *E.A. T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1321, 1324 (quoting *Hamdi v.*
 11 *Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting petition and ordering immediate release
 12 with no re-detention absent “an immigration court hearing . . . held (with adequate
 13 notice) to determine whether detention is appropriate.”). *See also, e.g., Ledesma*
 14 *Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, *8 (W.D. Wash.
 15 Oct. 7, 2025) (finding detainee has liberty interest).

16 Where there is a liberty interest, determining what procedures are due generally
 17 requires examining the factors set forth in *Mathews*:

18 First, the private interest that will be affected by the official action;
 19 second, the risk of an erroneous deprivation of such interest through the
 20 procedures used, and the probable value, if any, of additional or substitute
 21 procedural safeguards; and finally, the Government’s interest, including
 the function involved and the fiscal and administrative burdens that the
 additional or substitute procedural requirement would entail.

22 *E.A. T.-B.*, 795 F.Supp.3d at 1320–21 (quoting *Mathews*, 424 U.S. at 335).

23 Given that the liberty interest here is “the most elemental,” numerous courts
 24 have found that this first factor weighs heavily in a petitioner’s favor. *See Ledesma*
 25 *Gonzalez*, 2025 WL 2841574, at *7 (this factor “must be accorded significant weight”).
 26 Mr. Zheng’s status as a noncitizen does not negate that interest. “While the temporary

1 detention of non-citizens may sometimes be justified by concerns about public safety or
 2 flight risk, the government’s discretion to incarcerate non-citizens is always constrained
 3 by the requirements of due process[.]” *E.A. T.-B.*, 795 F.Supp.3d at 1321 (quoting
 4 *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

5 In fact, once an individual is released by ICE, they have a higher liberty interest
 6 than that of the normal ICE detainee. *See Guillermo M.R. v. Kaiser*, No. CV25-5436-
 7 RFL, 2025 WL 1810076, at *1 (N.D. Cal. June 30, 2025) (by alleging that he had
 8 previously been released by ICE and was about to be re-detained, “Petitioner has
 9 asserted liberty interests that differ from the liberty interests of a detained person in
 10 *Rodriguez Diaz*”) (referencing *Rodriguez Diaz*, 53 F.4th 1189)).⁷ Similarly, in *Carballo*
 11 *v. Andrews*, No. CV25-978-KES-EPG (HC), 2025 WL 2381464, *4 (E.D. Cal. Aug. 15,
 12 2025), the court indicated that an individual who has been released has had—in contrast
 13 to a detainee with no period of release—“an opportunity ‘to form the [] enduring
 14 attachments of normal life’” (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)),
 15 and thus has a heightened liberty interest, such as that which led the Supreme Court in
 16 *Morrissey* to impose due process requirements on parolees where the state seeks to
 17 revoke parole.

18 The second factor, risk of an erroneous deprivation of liberty, also weighs in Mr.
 19 Zheng’s favor. A detainee’s release to the community on an order of supervision
 20 generally reflects ICE’s determination that they were neither a flight risk nor a danger
 21 to the community. *See, e.g., Ledesma Gonzalez*, 2025 WL 2841574, at *8 (when ICE
 22 released petitioner, “it did so after determining—as required by regulation—that ‘such
 23 release would not pose a danger to property or persons, and that the [noncitizen] is
 24

25 ⁷ *Rodriguez* held that a person who had been detained pursuant to an individualized
 26 bond hearing where he was found to be a danger or flight risk was not categorically
 entitled to a second bond hearing and that, under the facts of that case, the detainee
 could not succeed in an as-applied challenge to his detention.

likely to appear for any future proceeding.’ . . . By issuing the OREC, ICE necessarily found that [petitioner] was neither a flight risk nor a danger to the community.”) (quoting 8 C.F.R. § 236.1(c)(8)); *Barrenechea v. Albarran*, No. CV25-7883-VC, 2025 WL 2717279, at *1 (N.D. Cal. Sept. 22, 2025) (“ICE’s release of Barrenechea on his own recognizance in 2020 can only be understood as reflecting a determination that he did not pose a flight risk or danger to the community”). Post-removal order, such release would occur once it was “determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701.

The final factor, the government’s interest in detaining a noncitizen without providing a pre-deprivation hearing, also weighs in the noncitizen’s favor. “[T]he government’s interest in detaining petitioner without a hearing is low.” *Carballo*, 2025 WL 2381464, *8 (cleaned up). “In immigration court, custody hearings are routine and impose a minimal cost.” *Id.* (cleaned up).

As stated in *E.A. T.-B.*, 795 F.Supp.3d at 1324, “although it would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing on ATD violations before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.”

The holding that a released detainee was entitled to a pre-deprivation hearing comes not from *Ledesma Gonzalez* and *E.A. T.-B.* alone; dozens of other courts have reached this conclusion as well. And while those two cases did not involve petitioners within final removal orders, many courts have found a liberty interest in not being re-detained, applied the *Mathews* factors as discussed above, and have granted immediate release. In this district, *see, e.g., Huy Van Tran v. Bondi*, No. 2:25-CV-02335-DGE-TLF, 2025 WL 3725677, at *5 (W.D. Wash. Dec. 24, 2025) (finding that detainee with final order of removal has liberty interest and fact that detainee was allowed to remain in community under order of supervision “only strengthens this interest”); *Khim v.*

1 *Bondi*, No. 2:25-CV-02383-RSL, 2025 WL 3653724, at *4 (W.D. Wash. Dec. 17,
 2 2025) (applying the *Mathews* analysis from *E.A. T.-B.* to detainee with final order of
 3 removal); *Jimenez v. Bondi*, No. C25-2167RSM, 2025 WL 3466925, at *2 (W.D.
 4 Wash. Dec. 3, 2025) (finding that petitioner with final order of removal “has a protected
 5 liberty interest in his continuing release from custody, and that due process requires that
 6 Petitioner receive proper notice and an opportunity to respond before he can be re-
 7 detained”; barring re-detention “without providing adequate notice of the reasons for
 8 his re-detention and a meaningful opportunity to respond.” *Id.* at *3). *See also, e.g.,*
 9 *Perez v. Mordant*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla.
 10 Dec. 3, 2025); *S-M-J v. Bostock*, No. 6:25-CV-01425-MTK, 2025 WL 3137296, at *5
 11 (D. Or. Nov. 10, 2025). *Cf. Lopez Dejesus, v. Bostock*, No. 25-CV-01427-JHC-TLF,
 12 2025 WL 3268002 (W.D. Wash. Nov. 24, 2025) (applying *Mathews* factors to conclude
 13 that petitioner was entitled to pre-re-detention due process, even though his detention
 14 was pursuant to the mandatory detention provisions of 8 U.S.C. § 1226(c)).⁸

15 In any hearing held by the government to justify re-detention, the government
 16 bears the burden of establishing flight risk or danger by clear and convincing evidence.
 17 *See Sanchez-Rivera v. Matuszewski*, No. CV22-1357-MMA-JLB, 2023 WL 139801,
 18 at *7 n.9 (S.D. Cal. Jan. 9, 2023) (noting that “an overwhelming majority of courts”
 19 have so held). For cases in this district, *see Odimara v. Bostock*, No. CV24-1412-MJP-
 20 TLF, 2025 WL 1490395, at *10 (W.D. Wash. Mar. 27, 2025), *report and*
 21 *recommendation adopted*, No. CV24-1412 MJP, 2025 WL 1489705 (W.D. Wash.
 22 May 23, 2025) (citing cases).

23 In addition, the government should be required to meet its burden based on
 24 changed circumstances subsequent to Mr. Zheng’s previous release by ICE. *See Duong*

25 ⁸ The *Lopez Dejesus* opinion does not mention that detention was pursuant to § 1226(c);
 26 that fact is shown in Respondents’ Return Memorandum, No. 25-CV-01427-JHC-TLF,
 dkt. 16 at 1 (W.D. Wash. Oct. 6, 2025).

1 *v. Kaiser*, No. CV25-7598-JST, -- F.Supp.3d --, 2025 WL 2689266, at *10 (N.D. Cal.
2 Sept. 19, 2025) (holding that any re-detention first required a hearing “whether a
3 material change of circumstances justifies [petitioner’s] re-detention”).

4 **IX. The Legal Framework for Third-Country Removals**

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

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

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

24 Third, if the individual is not removed to either the country of their designation
25 or the country of which they are a subject, national, or citizen, then the government
26 shall remove them to any of the following options: (1) the country from which the

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

7 8 U.S.C. § 1231(b)(2)(E). *Only* "[i]f impracticable, inadvisable, or impossible" to
8 remove the individual to any of these countries may the government remove the
9 individual to "another country whose government will accept [them] into that country."

10 8 U.S.C. § 1231(b)(2)(E)(vii).

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

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

28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also mandatory.

To comport with the requirements of due process, the government must provide notice of the third-country removal and an opportunity to respond. Due process requires “written notice of the country being designated” and “the statutory basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All removals to third countries, *i.e.*, removal to a country other than the country or countries designated during immigration proceedings as the country of removal on the non-citizen’s order of removal, must be preceded by written notice to both the non-citizen and the non-citizen’s counsel in a language the non-citizen can understand.” (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to the noncitizen of the right to apply for asylum and withholding to the country where they will be removed). The government must be able to show evidence that the third country will accept the individual into that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“at the time the government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must be able to show that the proposed country *will* accept the [individual]”).

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

1 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
 2 prior to removal.”) (emphasis omitted).⁹

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

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

17 **X. Facts Pertaining to Punitive Banishment to Third Countries**

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

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 23 ⁹ The Supreme Court later stayed a preliminary injunction pending an appeal in *D.V.D.*,
 24 but did so in an unreasoned order on the emergency docket. *See Dep’t of Homeland Sec.*
 25 *v. D.V.D.*, 145 S. Ct. 2153, 222 L. Ed. 2d 1109 (2025). The reason for the stay is
 26 unknown because the Department of Homeland Security (DHS) raised various
 independent grounds in seeking the stay—some purely procedural not reaching the
 merits of the decision. *See Nguyen v. Scott*, 796 F. Supp. 3d 703, 729–32 (W.D. Wash.
 2025) (analyzing meaning, or lack thereof, of stay of preliminary injunction in *D.V.D.*).

1 These shortcuts have been used to remove people to third countries where they are
2 imprisoned, abused, or mistreated.

3 Statements by multiple high-ranking officials demonstrate that punishment is the
4 point of these third country removals. Respondents reportedly have negotiated with at
5 least 58 countries to accept deportees from other nations. On June 25, 2025, the New
6 York Times reported that seven countries had agreed to accept deportees who are not
7 their own citizens.¹⁰ Since then, ICE has carried out highly publicized third-country
8 deportations to South Sudan and Eswatini. It also attempted—and completed—an “end-
9 run” around the protections of the Convention Against Torture by deporting a group of
10 migrants to Ghana, which sent them on to their countries of citizenship despite fears of
11 persecution. *See generally* Ex. 9, Sarah Stillman, *Disappeared to a Foreign Prison*,
12 *New Yorker* (Dec. 12, 2025). As detailed further below, the stated purpose, methods,
13 and impact of these deportations is punitive.

14 **A. The Administration’s third country removal scheme is designed to**
15 **punish and deter.**

16 In an official video, President Donald Trump stated, “[I]f illegal aliens choose to
17 remain in America, they’re remaining illegally, and they will face severe
18 consequences,” such as “significant jail time, ... garnishment of all wages,
19 imprisonment and incarceration, and *sudden deportation in a place and manner solely*
20 *of our discretion.*”¹¹ In January 2025, President Trump announced a plan to detain
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22 ¹⁰ The seven countries are Costa Rica, El Salvador, Guatemala, Kosovo, Mexico,
23 Panama, and Rwanda. Edward Wong, et al., *Inside the Global Deal-Making Behind*
24 *Trump’s Mass Deportations*, NY Times (June 25, 2025), <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html> [<https://perma.cc/6CPS-FBJQ>].

25 ¹¹ Roll Call, *Donald Trump Vlog: Self-Deportation Program - May 9, 2025*, at 00:00:55
26 (emphasis added), <https://rollcall.com/factbase/trump/transcript/donald-trump-vlog-self-deportation-program-may-9-2025/> [<https://perma.cc/XBX2-QALT>].

1 immigrants at the Guantanamo Bay prison in Cuba because “it’s a tough place to get
2 out” and “we don’t want them coming back.”¹²

3 Later, Secretary of State Marco Rubio announced that El Salvador had agreed to
4 “accept for deportation any illegal alien in the [U.S.] who is a criminal”¹³ with the
5 explicit understanding that “[Salvadoran President Bukele] will put them in his jails.”¹⁴
6 Respondent DHS Secretary Kristi Noem said, “It has been wonderful for us to be able
7 to have somewhere to send the worst of the worst and someone to partner with. And
8 we’d like to continue that partnership because it’s been *a powerful message of*
9 *consequences.*”¹⁵ President Trump also spoke about the deterrent effect of the El
10 Salvador banishments: “[W]e bring people there and ... they don’t get out.”¹⁶ DHS
11 agreed, posting, “Illegal aliens are turning back because they know ... they will
12 ultimately leave in handcuffs.”¹⁷

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14 ¹² Benedict Garman & Matt Murphy, *Migrant Tents Removed from Guantanamo Bay,*
15 *Satellite Images Show*, BBC News (Apr. 17, 2025), <https://www.bbc.com/news/articles/crm3x27vw70o> [<https://perma.cc/DGM4-JJE9>].

16 ¹³ Stefano Pozzebon, et al., *El Salvador Offers to House Violent US Criminals and*
17 *Deportees of Any Nationality in Unprecedented Deal*, CNN World (Feb. 4, 2025),
18 <https://www.cnn.com/2025/02/03/americas/el-salvador-migrant-deal-marco-rubio-intl-hnk>.

19 ¹⁴ Matthew Lee, *Rubio Says El Salvador Offers to Accept Deportees from US of Any*
20 *Nationality, Including Americans*, AP News (Feb. 4, 2025), <https://apnews.com/article/migration-rubio-panama-colombia-venezuela-237f06b7d4bdd9ff1396baf9c45a2c0b>.

21 ¹⁵ Roll Call, *Remarks: Donald Trump Holds a Bilateral Meeting with Nayib Bukele of*
22 *El Salvador - April 14, 2025*, at 00:06:45 (emphasis added),
<https://rollcall.com/factbase/trump/transcript/donald-trump-remarks-bilat-nayib-bukele-el-salvador-april-14-2025/> [<https://perma.cc/GQ26-ADHG>].

23 ¹⁶ Roll Call, *Press Conference: Donald Trump Hosts a Press Conference at the White*
24 *House - June 27, 2025*, at 00:20:29, <https://rollcall.com/factbase/trump/transcript/donald-trump-press-conference-white-house-june-27-2025/> [<https://perma.cc/326E-5T8L>].

25 ¹⁷ @DHSgov (Homeland Security), X (June 24, 2025, 4:17 PM), <https://x.com/DHSgov/status/1937651350059327520> [<https://perma.cc/2BRH-UXJ5>].

1 In April, Secretary of State Rubio stated that the Administration is “working
2 with other countries ... to send [them] some of the most despicable human beings ...
3 and the further away from America, the better, so they can’t come back.”¹⁸ Secretary
4 Noem has publicly threatened noncitizens with criminal convictions to “leave America”
5 or “be fined nearly \$1,000 per day, imprisoned, and deported.”¹⁹ She stated, “President
6 Trump and I have a clear message to those in our country illegally: LEAVE NOW. If
7 you do not self-deport, we will hunt you down, arrest you, and deport you.”²⁰

8 **B. The Administration has negotiated with countries to have U.S. deportees**
9 **imprisoned in prisons, camps, or other facilities.**

10 In February, Panama and Costa Rica took in hundreds of deportees from African
11 and Central Asian countries and imprisoned them in hotels, a jungle camp, and a
12 detention center.²¹ In Panama, officials confiscated cell phones, denying deportees

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17 ¹⁸ Kate Bartlett, *Trump Administration Plans to Deport Migrants to Libya*, NPR (May
18 7, 2025), <https://www.npr.org/2025/05/07/nx-s1-5389739/libya-immigration-crackdown-trump-deportations> [<https://perma.cc/C9LM-7333>].

19 ¹⁹ Press Release, Dep’t of Homeland Sec., *DHS Releases New Nationwide and*
20 *International Ads Warning Illegal Aliens to Self-Deport and Stay Out* (Apr. 21, 2025),
<https://www.dhs.gov/news/2025/04/21/dhs-releases-new-nationwide-and-international-ads-warning-illegal-aliens-self> [<https://perma.cc/2R24-34PA>].

21 ²⁰ Press Release, *supra* note 18 (italics omitted).

22 ²¹ The Associated Press, *Migrants Expelled from U.S. to Costa Rica, Panama in a Legal*
23 *‘Black Hole,’* CBC News (Feb. 28, 2025), <https://www.cbc.ca/news/world/costa-rica-panama-us-migrants-1.7471142> [<https://perma.cc/CE84-S3Y7>]; Juan Zamorano, *Nearly*
24 *300 Deportees From US Held in Panama Hotel as Officials Try to Return Them to Their*
25 *Countries*, AP World News (Feb. 18, 2025), <https://apnews.com/article/panama-trump-migrants-darien-d841c33a215c172b8f99d0aeb43b0455>; Manuel Rueda, *Asylum Seekers*
26 *Deported by the U.S. Are Stuck in Panama and Unable to Return Home*, All Things
Considered, NPR (May 5, 2025), <https://www.npr.org/2025/05/05/nx-s1-5369572/asylum-seekers-deported-by-the-u-s-are-stuck-in-panama-unable-to-return-home>.

access to their attorneys.²² Deportees were “guarded like prisoners,” sleeping in structures made from plastic sheets and having toilet access only when escorted.²³

The Costa Rican president announced an agreement to receive up to 200 deportees and to hold them for up to six weeks before sending them to their home countries, all paid for by the U.S.²⁴ The deportees were held at the Temporary Migrant Care Center (CATEM).²⁵ Migrants held there previously reported sleeping on the ground in tents, being held in cramped quarters like prisoners, and sanitation issues.²⁶ On June 24, a Costa Rican court ordered the release of the deportees due to civil rights violations, finding “they had been deprived of their freedom of movement without a prior individual ruling, that their communications with the outside had been restricted, and that they had not been told about the possibility of applying for refugee status.”²⁷

In March, the U.S. paid El Salvador \$5 million to indefinitely imprison over 200 deported Venezuelans in a maximum-security prison notorious for gross human rights

²² Julie Turkewitz, et al., *Migrants, Deported to Panama Under Trump Plan, Detained in Remote Jungle Camp*, N.Y. Times (Feb. 19, 2025), <https://www.nytimes.com/2025/02/19/world/americas/us-migrants-panama-jungle-camp.html?login=smartlock&auth=login-smartlock> [https://perma.cc/577B-MDRN].

²³ Matias Delacroix & Megan Janetsky, *Isolated in ‘Harsh Conditions:’ Deportee from US Details Legal Limbo in Panama Camp Near Darien Gap*, AP World News (Feb. 22, 2025), <https://apnews.com/article/panama-deportees-trump-hotel-darien-gap-iom-bba8c3dc33fd38efd569a5b51e481a86> [https://perma.cc/7FL8-KNXT].

²⁴ Alvaro Murillo, *Costa Rica Could Hold US Deportees for Up to Six Weeks, President Says*, Reuters (Feb. 19, 2025), <https://www.reuters.com/world/americas/costa-rica-could-hold-us-deportees-up-six-weeks-president-says-2025-02-19/> [https://perma.cc/8NR4-4F4A].

²⁵ The Associated Press, *Group of Mostly Asian Migrants Deported from U.S. Arrive in Costa Rica*, NBC News (Feb. 21, 2025), <https://www.nbcnews.com/news/asian-america/asian-migrants-deported-arrive-costa-rica-rcna193148> [https://perma.cc/R6MT-HK9F].

²⁶ The Associated Press, *supra* note 24.

²⁷ Vanessa Buschschlüter, *Costa Rican Court Orders Release of Migrants Deported from US*, BBC News (June 25, 2025), <https://www.bbc.com/news/articles/cwyrn42kp7no> [https://perma.cc/45FA-3VCY].

1 abuses, known as CECOT.²⁸ El Salvador's justice minister stated the only way out of
2 CECOT is in a coffin.²⁹

3 In May, ICE attempted to deport individuals from Vietnam, Laos, the
4 Philippines, and Mexico to Libya.³⁰ The aircraft sat on the runway for hours until the
5 individuals were returned to a detention center after a court ordered the men not to be
6 deported.³¹

7 On July 4, 2025, ICE deported eight men from various countries to South
8 Sudan.³² The government of South Sudan euphemistically said in a statement that the
9 deportees were "under the care of the relevant authorities"³³—meaning they are
10 imprisoned. They were held incommunicado after their deportation was completed.³⁴

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12 ²⁸ See, e.g., Wong, et al., *supra* note 9; Michael Rios, *What We Know About the El*
13 *Salvador 'Mega Prison' Where Trump Is Sending Alleged Venezuelan Gang Members*,
CNN (Mar. 17, 2025), [https://www.cnn.com/2025/03/17/americas/el-salvador-prison-](https://www.cnn.com/2025/03/17/americas/el-salvador-prison-trump-deportations-gangs-intl-latam)
[trump-deportations-gangs-intl-latam](https://www.cnn.com/2025/03/17/americas/el-salvador-prison-trump-deportations-gangs-intl-latam) [<https://perma.cc/G3CE-M2LB>].

14 ²⁹ Cecilia Vega, *U.S. Sent 238 Migrants to Salvadoran Mega-Prison; Documents*
15 *Indicate Most Have No Apparent Criminal Records*, CBS News (Apr. 6, 2025),
16 [https://www.cbsnews.com/news/what-records-show-about-migrants-sent-to-salvadoran-](https://www.cbsnews.com/news/what-records-show-about-migrants-sent-to-salvadoran-prison-60-minutes-transcript/)
[prison-60-minutes-transcript/](https://www.cbsnews.com/news/what-records-show-about-migrants-sent-to-salvadoran-prison-60-minutes-transcript/) [<https://perma.cc/65ZQ-UNXZ>].

17 ³⁰ Human Rights Watch, *U.S.: Don't Forcibly Transfer Migrants to Libya* (May 9,
18 2025), <https://www.hrw.org/news/2025/05/09/us-dont-forcibly-transfer-migrants-libya>
19 [<https://perma.cc/LC6H-4Y6G>].

20 ³¹ Human Rights Watch, *supra* note 29.

21 ³² Guardian, *US Judge Clears Path for Eight Immigrants to Be Deported to South*
22 *Sudan* (July 4, 2025), [https://www.theguardian.com/us-news/2025/jul/04/south-sudan-](https://www.theguardian.com/us-news/2025/jul/04/south-sudan-deportations-halted)
23 [deportations-halted](https://www.theguardian.com/us-news/2025/jul/04/south-sudan-deportations-halted) [<https://perma.cc/33XA-N863>].

24 ³³ Mattathias Schwartz, *Trump Administration Poised to Ramp Up Deportations to*
25 *Distant Countries*, N.Y. Times (July 13, 2025), [https://www.nytimes.com/2025/07/13/](https://www.nytimes.com/2025/07/13/us/politics/south-sudan-third-country-deportations.html)
26 [us/politics/south-sudan-third-country-deportations.html](https://www.nytimes.com/2025/07/13/us/politics/south-sudan-third-country-deportations.html) [<https://perma.cc/PQZ9-4B9F>];
see also Press Statement, Republic of South Sudan, *Official Statement on the Arrival of*
Third-Country Nationals and South Sudanese Deported from the United States of
America to South Sudan (July 8, 2025), [https://mofaic.gov.ss/official-statement-on-the-](https://mofaic.gov.ss/official-statement-on-the-arrival-of-third-country-nationals-and-south-sudanese-deported-from-the-united-states-of-america-to-south-sudan/)
[arrival-of-third-country-nationals-and-south-sudanese-deported-from-the-united-states-](https://mofaic.gov.ss/official-statement-on-the-arrival-of-third-country-nationals-and-south-sudanese-deported-from-the-united-states-of-america-to-south-sudan/)
[of-america-to-south-sudan/](https://mofaic.gov.ss/official-statement-on-the-arrival-of-third-country-nationals-and-south-sudanese-deported-from-the-united-states-of-america-to-south-sudan/) [<https://perma.cc/ML25-BJZM>].

³⁴ Ex. 12, ¶ 18 (this exhibit is the Declaration of Glenda M. Aldana Madrid, filed in
Nguyen v. Scott, No. 2:25-CV-01398, dkt. 29 (W.D. Wash. Aug. 1, 2025)).

On July 15, ICE deported five men from multiple countries to Eswatini.³⁵ DHS referred to the men as “so uniquely barbaric that their home countries refused to take them back.”³⁶ Eswatini government officials have said the men are imprisoned in solitary confinement and that the U.S. is paying for the costs of their imprisonment.³⁷ An Eswatini government official estimated the men would be held for about 12 months.³⁸

It also attempted—and completed—an “end-run” around the protections of the Convention against Torture by deporting a group of migrants to Ghana, which sent them on to their countries of citizenship despite fears of persecution.³⁹

C. The Administration has handpicked countries known for human rights abuses for third country deportation agreements to scare people in the U.S. into self-deporting or to accept removal to their home countries.

For example, conditions in South Sudan are so extreme that the U.S. State Department website warns Americans not to travel there, or to prepare their will, make

³⁵ Ex. 11 (this exhibit is the Declaration of Tin Thanh Nguyen, filed in *Nguyen v. Scott*, No. 2:25-CV-01398, dkt. 29 (W.D. Wash. Aug. 1, 2025)) at ¶ 19.

³⁶ @TriciaOhio (Tricia McLaughlin), X (July 15, 2025 at 5:09 PM), <https://x.com/TriciaOhio/status/1945274627976200206> [<https://perma.cc/YV2M-4WRL>].

³⁷ Nimi Princewill, et al., ‘Not Trump’s Dumping Ground’: Outrage Over Arrival of Foreign US Deportees in Tiny African Nation, CNN World (July 18, 2025), <https://www.cnn.com/2025/07/17/africa/africa-eswatini-trump-us-deportees-intl> [<https://perma.cc/8U9T-LVMP>]; Rachel Savage, et al., *Eswatini Opposition Attacks US Deal as ‘Human Trafficking Disguised as Deportation,’* The Guardian (July 23, 2025), <https://www.theguardian.com/world/2025/jul/23/eswatini-petition-us-deportees> [<https://perma.cc/XV7W-89P4>].

³⁸ Savage, et al., *supra* note 36.

³⁹ Camilo Montoya-Perez, *Judge Says U.S. Trying to Do “End-Run” Around Legal Protections with Deportations to Ghana*, CBS News (Sept. 15, 2025), <https://www.cbsnews.com/news/judge-says-u-s-trying-to-do-end-run-around-legal-protections-with-deportations-to-ghana/> [<https://perma.cc/9RUP-KJQJ>].

funeral arrangements, and appoint a hostage-taker negotiator first.⁴⁰ Eswatini is ruled by a monarch, and many of its citizens live on less than four dollars a day.⁴¹ The prison system is overcrowded, with prisoners receiving one meal a day.⁴² The U.S. State Department advises Americans to “exercise increased caution in Eswatini due to crime and civil unrest.”⁴³ And Libya is in the middle of a civil war, with a record of “pervasive long-term arbitrary detention, enforced disappearances of both men and women, killings under torture, and unlawful killings in places of detention.”⁴⁴ The United Nations has called Libya’s violations of detainees’ rights “crimes against humanity.”⁴⁵

D. The Administration has violated due process in carrying out these third-country deportations.

Respondents have through both word and action evidenced their intent to remove people to third countries without first following the procedural safeguards of the INA or providing adequate notice and opportunity to be heard regarding fear of removal to a third country. This procedure facilitates the deportation of people to third countries where they face the abusive conditions detailed above.

On July 9, 2025, ICE issued a new memo stating that, when seeking to remove an individual to a country not designated on the removal order, ICE may deport that

⁴⁰ U.S. Department of State, Travel.State.Gov, *South Sudan Travel Advisory* (Mar. 8, 2025), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/south-sudan-travel-advisory.html> [https://perma.cc/6NXV-JXCY].

⁴¹ Princewill, et al., *supra* note 36.

⁴² Princewill, et al., *supra* notes 36.

⁴³ U.S. Department of State, Travel.State.Gov, *Eswatini Travel Advisory* (July 1, 2024), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/eswatini-travel-advisory.html> [https://perma.cc/ASY7-2DUF].

⁴⁴ Human Rights Watch, *supra* note 29; see Bartlett, *supra* note 17.

⁴⁵ Human Rights Watch, *supra* notes 29.

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

12 The memo further instructs that if the noncitizen “does not affirmatively state a
13 fear of persecution or torture if removed to the country of removal listed on the Notice
14 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
15 on the notice.” *Id.* at 2. If the noncitizen “does affirmatively state a fear if removed to
16 the country of removal,” then ICE will refer the case to U.S. Citizenship and
17 Immigration Services (“USCIS”) for a screening for eligibility for withholding of
18 removal and protection under the Convention Against Torture. *Id.* “USCIS will
19 generally screen within 24 hours.” *Id.* If USCIS determines that the noncitizen does not
20 prove to the screener’s satisfaction that it is more likely than not that the noncitizen will
21 be tortured, the individual will be removed. *Id.* This imposes on the noncitizen a higher
22 standard than the “reasonable fear” and “credible fear” standards found in the INA. If
23 USCIS determines that the noncitizen has met the standard, then the policy directs ICE
24 to either move to reopen removal proceedings “for the sole purpose of determining
25 eligibility for [withholding of removal protection] and CAT” or designate another
26 country for removal. *Id.*

1 And ICE appears to be acting on this directive. For example, the non-Sudanese
 2 men who were ultimately deported to South Sudan claimed fear of removal to South
 3 Sudan. None of those men were provided a meaningful fear screening by a USCIS
 4 officer or otherwise, despite the fact that they were held by ICE for six weeks on a U.S.
 5 military base in Djibouti before their final removal to South Sudan.⁴⁶

6 Further support that Mr. Zheng faces a risk of punitive third-country removal
 7 comes from two declarations submitted in *Nguyen*, attached here as Ex. 11 (Declaration
 8 of Tin Thanh Nguyen) and Ex. 12 (Declaration of Glenda M. Aldana). They detail
 9 removals to third countries with little or no notice, as described in *Nguyen*, 796
 10 F.Supp.3d at 736–37. Because Mr. Zheng was granted withholding of removal to
 11 China—his country of citizenship—he as particular risk of third-country removal.

12 **XI. The Law Governing Punitive Removal Practices**

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

19 Importantly, the Court distinguished deportation, which the Court reasoned is
 20 “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion of
 21 a citizen from his country by way of punishment,” from government actions aimed at
 22 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236.

24 ⁴⁶ See Montoya-Perez, *supra* note 38; Adam Liptak, *Supreme Court Lets Trump Deport*
 25 *Migrants to Countries Other Than Their Own* (June 23, 2025),
 26 [https://www.nytimes.com/2025/06/23/us/politics/supreme-court-south-sudan-](https://www.nytimes.com/2025/06/23/us/politics/supreme-court-south-sudan-migrants.html)
[migrants.html](https://perma.cc/4DEE-LKCC) [https://perma.cc/4DEE-LKCC]

1 The Court explained that deportation “is but a method of enforcing the return to his own
 2 country of [a noncitizen] who has not complied with the conditions upon the
 3 performance of which the government of the nation, acting within its constitutional
 4 authority and through the proper departments, has determined that his continuing to
 5 reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730
 6 (1893)). But the Court admonished that the government may not “declare unlawful
 7 residence within the country to be an infamous crime, punishable by deprivation of
 8 liberty and property . . . unless provision were made that the fact of guilt should first be
 9 established by a judicial trial.” *Id.* at 237.

10 Deportation of individuals to third countries to be imprisoned or harmed is
 11 unquestionably punishment.

12 **XII. The Law Governing Injunctive Relief**

13 “An injunction is appropriate when the party seeking relief demonstrates that: (1)
 14 it is likely to suffer irreparable injury that cannot be redressed by an award of damages;
 15 (2) that “considering the balance of hardships between the plaintiff and defendant, a
 16 remedy in equity is warranted”; and (3) “that the public interest would not be disserved
 17 by a permanent injunction.” *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225,
 18 1243 (9th Cir. 2018).

19 **Grounds for Relief**

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

24 The allegations in the above paragraphs are realleged and incorporated herein.
 25
 26

1 Because Mr. Zheng's removal order became final on October 15, 2025 at the
 2 latest,⁴⁷ the statutory 90-day removal period has since expired and detention is no
 3 longer required under 8 U.S.C. § 1231. Although the six-month period during which
 4 detention is *presumptively* reasonable under *Zadvydas* has yet to expire, the evidence in
 5 this case overcomes that presumption of reasonableness and demonstrates there is no
 6 significant likelihood of removal in the reasonably foreseeable future. As such, ongoing
 7 detention is still unlawful because it is not for the purpose of effectuating removal. *See*
 8 *supra* pp. 12–14.

9 There is “good reason to believe that there is no significant likelihood of removal
 10 in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701. Mr. Zheng cannot
 11 presently be returned to China because the IJ explicitly ordered that his removal to
 12 China be withheld pursuant to 8 U.S.C. § 1231(b)(3). *See* Dkt. 8-8. Removal to China is
 13 thus not reasonably foreseeable. ICE is prohibited from seeking a travel document from
 14 China for Mr. Zheng and has not provided evidence of a travel document for any other
 15 country. Upon information and belief, no country has agreed to accept Mr. Zheng.

16 Here, evidence demonstrates that efforts at lawful third-country removal are not
 17 underway, and Respondents' detention of Mr. Zheng is apparently not furthering the

18
 19 ⁴⁷ The order of removal and grant of withholding was entered on September 15, 2025,
 20 in writing only (entered after the hearing a few days earlier). *See* Dkt. 8-8 (IJ Order). As
 21 relevant here, a removal order becomes final upon the waiver of appeal by the
 22 respondent, *see* 8 C.F.R. § 1241.1(b), or upon expiration of the time allotted for appeal
 23 if the respondent does not file an appeal within that time, *see* 8 C.F.R. § 1241.1(c). The
 24 period to file an appeal of the order in Mr. Zheng's case was 30 days. *See* 8 C.F.R.
 25 § 1003.38(b). And no appeal was filed in his case. *See* Ex. 1. However, Mr. Zheng
 26 made no earlier affirmative waiver of appeal through no fault of his own. Indeed, his
 retained immigration attorney did not consult with him following his hearing on
 September 11, 2025, including after the order was issued four days later. Mr. Zheng
 learned of the order only later through his sister, and did not know the process for either
 appealing or waiving appeal of the order. *See* Declaration of Mr. Zheng at 1–2. In the
 interest of justice, it may be more reasonable to calculate the removal period with
 September 15, 2025, as the date the order became final.

1 purpose of lawful removal. Respondents have detained Mr. Zheng for almost four
2 months since the date his removal order certainly became final. During that time,
3 Respondents have apparently taken no steps toward the lawful removal of Mr. Zheng to
4 a third country. Respondents have not asked Mr. Zheng to designate a country of his
5 choice for third-country removal, nor contacted any country so designated. Respondents
6 have apparently neither contacted any third country to which Mr. Zheng has a
7 connection (substantial or less so, such as a point of travel) which the statute requires
8 respondents to next attempt as the destination for third-country removal. *See*
9 Declaration of Mr. Zheng at 3; Dkt. 7 at 3–4 (detailing no request for Mr. Zheng to
10 designate a country for third-party removal nor any other efforts to actually follow the
11 commands of the third-country removal statute as summarized *supra* at pp. 19–20).

12 Instead, Respondents have sought only to encourage Mr. Zheng to voluntarily
13 depart the United States to some other country. *See id.* Indeed, Respondents, not Mr.
14 Zheng, have identified a limited list of countries where Respondents have told Mr.
15 Zheng he can go if he buys his own plane ticket. *See* Dkt. 7 at 3–4. Respondents have
16 not indicated a single inquiry to any country that would be the destination for lawful
17 third-country removal, nor efforts to follow the required sequence of requests under the
18 INA. Nor have Respondents even indicated whether they have secured Mr. Zheng’s
19 passport or verified its validity (his most basic travel document to any country). *See id.*
20 (absence of such actions). And in their limited communications with Mr. Zheng,
21 Respondents have either failed to use a qualified interpreter or have failed to actually
22 translate documents for which they seek his signature, leaving Mr. Zheng unable to
23 understand what is happening, to make knowing and voluntary decisions, or to
24 meaningfully assist in any lawful removal efforts. *See* Declaration of Mr. Zheng at 2–3.

25 This evidence demonstrates that there is no significant likelihood Respondents
26 will lawfully remove Mr. Zheng in the reasonably foreseeable future. It demonstrates

1 Respondents are not even taking actions consistent with lawful third-country removal.
2 As such, Mr. Zheng's detention is not justified by a purpose of effectuating removal
3 that is lawful under the INA. Instead, Respondents' ongoing detention of Mr. Zheng
4 appears to further the purpose of coercing him to "voluntarily" depart or "self-deport"
5 from the United States. This is the only request that Respondents have actually made of
6 Mr. Zheng. And detention for this purpose is not authorized by § 1231 or *Zadvdas*.

7 Given this evidence, Mr. Zheng has overcome the presumption that detention is
8 reasonable for the purpose of effectuating removal up to six months after a removal
9 order is finalized. Thus, the burden shifts to the government to rebut that showing. The
10 government cannot meet that burden under the facts of this case. *See Nguyen*, 796
11 F.Supp.3d 703, 739 (granting preliminary injunction requiring release under *Zadvdas*);
12 *Tang*, 2025 WL 2637750, at *6 (same).

13 **Ground Two: Procedural Due Process Requires Respondents provide Mr.**
14 **Zheng with Notice of a Basis to Detain him Based on Changed**
15 **Circumstances and a Meaningful Opportunity to Be Heard Prior to Re-**
16 **Detaining Him After Release.**

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

17 Mr. Zheng has a liberty interest in not being re-detained. Applying the three-
18 factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is
19 also high, because his release of him (whether by this Court upon grant of his first
20 ground for relief or by ICE pursuant to its own decision) will necessarily reflect a
21 conclusion that Mr. Zheng is not removable in the reasonably foreseeable future and is
22 not an unmanageable flight risk or a danger to the community. Mr. Zheng seeks
23 prospective relief enjoining Respondents from "revok[ing] that release without any
24 reassessment of those factors." *Ledesma Gonzalez*, 2025 WL 2841574, at *8.

1 In addition, the cost to the government of providing a hearing regarding re-
 2 detention is low, and significantly outweighed by the other factors. Re-detention Of Mr.
 3 Zheng would violate his due process rights and therefore be unlawful.

4 Furthermore, the requirements for injunctive relief are met. First, Mr. Zheng's
 5 prospective unlawful re-detention would constitute an irreparable injury that could not
 6 be redressed by an award of damages. Second, the balance of hardships is completely in
 7 Mr. Zheng's favor: Mr. Zheng risks unlawful re-detention, while Respondents suffer no
 8 hardship by being prevented from following their unlawful re-detention practices.
 9 Finally, the public interest would affirmatively be served by barring Respondents'
 10 unlawful practice.

11 Furthermore, there is a significant likelihood that Respondents would seek to
 12 again re-detain Mr. Zheng unlawfully. Respondents have a policy to round up as many
 13 noncitizens as possible.⁴⁸ In *Somsanuk v. Bondi*, No. C26-48-MLP, 2026 WL 221139,
 14 at *4–*5 (W.D. Wash. Jan. 28, 2026) and *Phuc Huu Nguyen v. Bondi*, No. 2:25-CV-
 15 02723-RAJ, 2026 WL 183819, at *6 (W.D. Wash. Jan. 23, 2026), courts in this district
 16 identified factors that put the petitioners in those cases at risk of unlawful re-detention
 17 following their post-removal order release from immigration custody. Those same
 18 factors apply to Mr. Zheng here. He “falls within a group that ICE has treated as a
 19 priority for enforcement: noncitizens with prior criminal convictions.” *Somsanuk*, 2026
 20 WL 221139, at *4 (citing *Phuc Huu Nguyen*, 2026 WL 183819, at *6). Respondents
 21 “provide no assurance that they will refrain from redetaining him[.]” *Id.* at *4. And the
 22 right he seeks is one he “can enforce . . . only by bringing a challenge now, prior to
 23

24
 25 ⁴⁸ See, e.g., Jose Olivares, “Trump administration sets quota to arrest 3,000 people a
 26 day in anti-immigration agenda,” *The Guardian* (May 29, 2025),
<https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota>
[\[https://perma.cc/6P5L-NUDM\]](https://perma.cc/6P5L-NUDM).

being re-arrested.” *Id.* at *4 (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)).

Besides *Somsanuk*, decisions in this district that have granted relief comparable to that sought here include, *Castaneda Aponte v. Washington Immigration and Customs Enforcement*, No. 25-CV-2144-JLR, 2025 WL 4051991, at *2 (W.D. Wash. Dec. 29, 2025), *report and recommendation adopted*, 2026 WL 105038 (W.D. Wash. Jan. 14, 2026); *Vo v. Bondi*, No. 25-CV-02244-DGE-GJL, 2025 WL 3653722, at *6 (W.D. Wash. Dec. 17, 2025); *Wana v. Bondi*, 25-cv-02321-RSL, 2025 WL 3628634, *6 (W.D. Wash. Dec. 15, 2025); *Ledesma Gonzalez v. Bostock*, No. 25-CV-01404-JNW-GJL, 2025 WL 2841574, at *9 (W.D. Wash. Oct. 7, 2025); and *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025).

Ground Three: The Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture, Implementing Regulations, and the Administrative Procedure Act Prohibit Respondents from Removing Mr. Zheng to a Third Country Without Required Due Process

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

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

1 Prior to any third-country removal, Mr. Zheng must be provided with
 2 constitutionally and statutorily compliant notice and an opportunity to respond and
 3 contest that removal if he has a fear of persecution or torture in that country in reopened
 4 removal proceedings. *See Nguyen*, 796 F.Supp.3d 703, 739 (granting preliminary
 5 injunction against “removing Petitioner to a country other than [home country] without
 6 notice and a meaningful opportunity to be heard in reopened removal proceedings with
 7 a hearing before an immigration judge”).

8 Furthermore, the requirements for injunctive relief are met. Mr. Zheng’s
 9 prospective unlawful re-detention would constitute an irreparable injury that could not
 10 be redressed by an award of damages. Second, the balance of hardships is completely in
 11 Mr. Zheng’s favor: Mr. Zheng risks unlawful removal to a third country, while
 12 Respondents suffer no hardship by being prevented from following their unlawful third-
 13 country removal practices. Finally, the public interest would affirmatively be served by
 14 barring Respondents’ unlawful practice.

15 In addition, the matter is ripe. The facts set forth above—including Respondents’
 16 stated policy regarding third country removals—make it reasonably likely that
 17 Respondents would seek to remove Mr. Zheng to a third country without complying
 18 with their regulatory and constitutional obligations to provide Mr. Zheng with notice
 19 and an opportunity to be heard.

20 **Ground Four: Respondents’ Punitive Third-Country Banishment Policy**
 21 **and Practice Violates the Fifth and Eighth Amendments and Should be**
 22 **Enjoined**

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

24 Under the Fifth Amendment to the U.S. Constitution, no person shall “be held to
 25 answer for a capital, or otherwise infamous crime, unless on a presentment or
 26 indictment of a Grand Jury;” “be subject for the same offence to be twice put in

1 jeopardy of life or limb;” or “be deprived of life, liberty, or property, without due
2 process of law.”

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

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

9 Mr. Zheng was convicted and completed any sentences for a theft-related crime
10 prior to entry of the removal order. Mr. Zheng’s conviction was factored into the IJ’s
11 decision to deny him affirmative asylum and order him removed (instead granting him
12 only asylum withholding of removal), *see* Dkt. 8-8, but the conviction does not
13 authorize Respondents to inflict, as a matter of executive policy and discretion,
14 additional punishment on Mr. Zheng. Respondents’ third-country removal program is
15 punitive in both its nature and its execution.

16 Respondents and the present executive administration have arranged for third
17 countries to receive deportees and imprison them on arrival, possibly indefinitely, and
18 often in abhorrent conditions. They have selected countries notorious for human rights
19 abuses and instability for third-country removal arrangements. They have targeted
20 individuals with criminal convictions for third-country removals, where they will be
21 imprisoned and harmed, and have publicly broadcast those removals to demonize and
22 dehumanize the individuals subjected to these practices and strike fear in the immigrant
23 community to send a message of retribution and deterrence. *See supra* pp. 23–32.

24 Respondents’ third-country removal program is more than a publicity stunt. The
25 hundreds of individuals who have already been subjected to it have been banished in
26 foreign prisons upon arrival without charge and often without communication with the

1 outside world, including their families and lawyers. *See id.* Respondents may not
2 subject Mr. Zheng to their third-country removal program which is designed to impose
3 a severe punishment on its subjects. Such conduct “shocks the conscience” under Fifth
4 Amendment substantive due process, is cruel and unusual punishment, and may not be
5 imposed without charge and a judicial trial.

6 Respondents may not seek to remove Mr. Zheng to a third country under their
7 punitive banishment policy and practices. *See Nguyen*, 796 F.Supp.3d 703, 739
8 (granting preliminary injunction against “removing Petitioner to any country where he
9 is likely to face imprisonment upon arrival”).

10 The criteria for an injunction in this case are met. First, unlawful removal to a
11 third country risks irreparable injury that could not be redressed by an award of
12 damages. Second, the balance of hardships is completely in Mr. Zheng’s favor: Mr.
13 Zheng risks removal to a third country where unwarranted punishment may result, and
14 Respondents suffer no hardship by being prevented from following their unlawful
15 removal policies. Finally, the public interest would affirmatively be served by barring
16 Respondents’ unlawful policies. Given the potential for Respondents to attempt a rapid
17 and unlawful removal, Mr. Zheng would have no opportunity to seek injunctive relief at
18 that time.

19 Furthermore, the matter is ripe. The facts set forth above—including
20 Respondents’ stated policy regarding third country removals—make it reasonably likely
21 that Respondents would seek to remove Mr. Zheng to a third country with a punitive
22 intent and punitive result.

23 Prayer for Relief

24 Mr. Zheng respectfully requests that this Court:

- 25 (a) Assume jurisdiction over this action;
26 (b) Order Respondents to immediately release him from custody;

1 (c) Order Respondents to, within 24 hours of his release, provide the Court
2 with a declaration confirming that he has been released from custody;

3 (d) Order that Respondents may not re-detain him without first holding a
4 hearing before a neutral decisionmaker at which the government bears the burden of
5 establishing flight risk or danger to the community by clear and convincing evidence
6 based on changed circumstances since Mr. Zheng was previously released;

7 (e) Order that Respondents may not otherwise re-detain him unless
8 Respondents:

- 9 (1) obtain a valid travel document to a country that is a lawful destination for
10 third-country removal under the INA;
11 (2) provide the valid travel document to him and his counsel,
12 (3) offer Mr. Zheng the opportunity to leave on his own within two months,
13 and
14 (4) Mr. Zheng does not leave. Under such circumstances, Respondents may
15 be permitted to re-detain Mr. Zheng provided they have already made
16 concrete arrangements for him to be put on a flight in the reasonably
17 foreseeable future to a country that is a lawful destination for third-
18 country removal.

19 *See Do v. Scott*, No. C25-2187RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5,
20 2025); *Tang*, 2025 WL 3551381, at *3.

21 (f) Order that Respondents may not remove or seek to remove Mr. Zheng to
22 a third country without notice and meaningful opportunity to respond in compliance
23 with the statute and due process in reopened removal proceedings;

24 (g) Order that Respondents may not remove him to any country where he is
25 likely to face imprisonment or other punishment upon arrival; and

26 (h) Order all other relief that the Court deems just and proper.

Verification Pursuant to LCR 100(e)

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

DATED this 12th day of February, 2026.

Respectfully submitted,

s/ Rebecca C. Fish
Assistant Federal Public Defender
Attorney for Guo Xin Zheng

Exhibit 1



An official website of the United States government

Here's how you know



EOIR Automated Case Information

Court Closures Today February 4, 2026

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

[Home](#) > **GUO-XIN, ZHENG** ([REDACTED])



Automated Case Information

Name: GUO-XIN, ZHENG | **A-Number:** [REDACTED] |

Docket Date: 5/9/2023



Next Hearing Information



There are no future hearings for this case.



Court Decision and Motion Information

The immigration judge **GRANTED** INA Withholding.

DECISION DATE

September 15, 2025

COURT ADDRESS

1623 EAST J STREET, SUITE 3
TACOMA, WA 98421



BIA Case Information

No appeal was received for this case.



Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS

1623 EAST J STREET, SUITE 3
TACOMA, WA 98421

PHONE NUMBER

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5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041



EOIR Automated Case Information

Exhibit 2

From: Wong, Jennifer (USAWAW) [REDACTED]
Sent: Tuesday, January 13, 2026 12:15 PM
To: Elizabeth Sher
Cc: Lambert, Michelle (USAWAW); Morris, Alixandria (USAWAW); Julie Valencia
Subject: RE: Javein Jumel Coke v. Bondi, et al.) (26-cv-71)

ICE has informed us that a travel document is not necessary for individuals to be removed by land to Mexico. Petitioner would likely be transferred to Florence Service Processing Center in Arizona before being taken to Mexico. We oppose a no-transfer motion.

Thank you,

Jennifer Wong
Assistant United States Attorney
U.S. Attorney's Office, Western District of Washington
700 Stewart Street
Seattle, WA 98101
[REDACTED]

From: Elizabeth Sher [REDACTED]
Sent: Tuesday, January 13, 2026 10:45 AM
To: Wong, Jennifer (USAWAW) [REDACTED]
Cc: Lambert, Michelle (USAWAW) [REDACTED] Morris, Alixandria (USAWAW)
[REDACTED] Julie Valencia [REDACTED]
Subject: [EXTERNAL] Re: Javein Jumel Coke v. Bondi, et al.) (26-cv-71)

Jennifer,
Do you have travel documents for Mr. Coke to Mexico? If so, please provide them to me ASAP. What is the potential US jurisdiction Mr. Coke may be transferred to to facilitate removal? We are likely filing an emergency no-transfer motion (not a TRO); what is your position?

Thank you,
Elizabeth Sher
Assistant Federal Defender

From: Wong, Jennifer (USAWAW) [REDACTED]
Sent: Tuesday, January 13, 2026 10:29:21 AM
To: Elizabeth Sher [REDACTED]
Cc: Lambert, Michelle (USAWAW) <[REDACTED]> Morris, Alixandria (USAWAW)
[REDACTED]
Subject: Javein Jumel Coke v. Bondi, et al.) (26-cv-71)

Counsel,

Pursuant to the Court's order, Federal Respondents are providing a 48-hour notice concerning your client's removal to Mexico.

Thank you,

Jennifer Wong
Assistant United States Attorney
U.S. Attorney's Office, Western District of Washington
700 Stewart Street
Seattle, WA 98101


Exhibit 3

1 ADAM GORDON
United States Attorney
2 ERIN M. DIMBLEBY
Assistant U.S. Attorney
3 California Bar No. 323359
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-6987
6 Email: [REDACTED]

7 Attorneys for Respondents

8
9 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA

10 CARLOS RIOS,

11 Petitioner,

12 v.

13 KRISTI NOEM; et al.,

14 Respondents.
15
16

Case No.: 25-cv-02866-JES-VET

**NOTICE OF SUPPLEMENTAL
INFORMATION**

17 Respondents herein submit the attached declaration in support of their Response in
18 Opposition to Petitioner's Habeas Petition and Application for Temporary Restraining
19 Order. *See* Declaration of Martin Parsons.
20

21 Dated: November 5, 2025

Respectfully submitted,

22 ADAM GORDON
United States Attorney

23 s/ Erin M. Dimbleby
24 ERIN M. DIMBLEBY
25 Assistant U.S. Attorney
26 Attorneys for Respondents
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CARLOS RIOS,

Petitioner,

v.

KRISTI NOEM, Secretary of the
Department of Homeland Security; et al.,

Respondents.

Case No. 25-cv-02866-JES-VET

**SUPPLEMENTAL DECLARATION OF
MARTIN PARSONS**

I, Martin Parsons pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury that the following statements are true and correct, to the best of my knowledge, information, and belief:

1. I am employed by the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), in the San Diego Field Office, as a Deportation Officer (DO). I have held this position since November 10, 2019.

2. I am currently assigned to the Otay Mesa suboffice and my responsibilities include enforcing final orders of deportation and removal from the United States for aliens and requesting travel documents from foreign consulates as part of the removal process.

1 3. I am currently responsible for monitoring this case. I make this declaration
2 based upon my own personal knowledge and experience as a law enforcement officer and
3 information provided to me in my official capacity as a DO in the ICE ERO San Diego Field
4 Office. I make this declaration based on review of Petitioner Carlos Rios's alien file
5 [REDACTED], consultation with other ICE officers, and review of official documents and
6 records maintained by ICE.

7 4. Petitioner unlawfully entered the United States in 1988, and less than two years
8 later, was convicted of murder and sentenced to twenty-seven years in prison.

9 5. On June 8, 2021, Petitioner was ordered removed to Cuba.

10 6. On July 27, 2021, Petitioner was released from ICE custody under an Order of
11 Supervision because it was unable to repatriate him to Cuba.

12 7. On September 22, 2025, ICE re-detained Petitioner to execute his removal
13 order. After ICE's attempt at repatriating Petitioner to Cuba was unsuccessful, ICE
14 identified Mexico as a third country where Petitioner may be removed based on Mexico's
15 recent agreement with the United States to accept individuals from Cuba, Haiti, Nicaragua,
16 Venezuela, Guatemala, Honduras, and El Salvador for third country removal.

17 8. On September 29, 2025, ICE requested the Mexican government to accept
18 twenty individuals, including Petitioner, for resettlement in Mexico. The Mexican
19 government replied that same day, confirming its acceptance of the twenty individuals, and
20 confirming their arrival time of October 1, 2025, at 10:00 a.m.

21 9. When a third country is identified for resettlement, standard ICE guidance and
22 procedures provide that an ICE officer will provide written notice to the removable alien of
23 the intended third country removal. The written notice identifies which country ICE intends
24 to remove the alien to. ICE will generally wait at least 24 hours following service of the
25 Notice of Removal before effectuating removal. In exigent circumstances, ERO may
26 execute a removal order six or more hours after service of the Notice of Removal as long as
27 the alien is provided reasonable means and opportunity to speak with an attorney prior to
28 removal.

1 10. At this time, Petitioner's file does not contain a copy of a Notice of Third
2 Country Removal, with Mexico identified as the country of removal.

3 11. On October 1, 2025, ICE drove Petitioner to the Mexican border to effectuate
4 his third country resettlement, but Petitioner refused to willingly go to Mexico. Petitioner
5 did not express a fear of removal to Mexico. The Mexican government was ready to accept
6 Petitioner only if he would willingly go to Mexico. ICE cannot, and did not, force Petitioner
7 to depart to Mexico, nor did it threaten Petitioner with removal to Africa.

8 12. As removal to Mexico was unsuccessful, ICE no longer intends to seek to
9 remove Petitioner to Mexico. ICE is continuing to seek to identify a third country for
10 repatriation. Once a new third country is identified, ICE will provide Petitioner with notice,
11 and if Petitioner claims a fear of removal to the identified country, he will be referred to an
12 asylum officer for processing of the fear-based claims.

13 I declare under penalty of perjury of the laws of the United States of America that the
14 foregoing is true and correct.

15 Executed this 5th day of November 2025.

16 MARTIN T
17 PARSONS

Digitally signed by MARTIN T
PARSONS
Date: 2025.11.05 13:44:27 -08'00'

18 Martin Parsons
19 Deportation Officer
20 San Diego Field Office
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Exhibit 4

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VICTOR ARGENIS REA-
HERNANDEZ,

Petitioner,

v.

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; WARDEN of
Immigration Detention Facility; and the
United States Immigration and Customs
Enforcement,

Respondents.

No. CV25-02609-TL

DECLARATION OF ZANDRA LOPEZ

I, Zandra Lopez, declare the following to be true and correct to the best of my
information and belief:

1. I am an attorney at Federal Defenders of San Diego, Inc. I have filed a
number of immigration habeas cases for clients in the Southern District of California.

2. In recent months, I have spoken to dozens of non-Mexican individuals
with final orders of removal who have told me about similar experiences with ICE's
attempts to remove them to Mexico. The experiences are consistent with one another.
They are woken up in the early morning hours, told to dress into their civilian clothing,
and placed in a van that then takes them to the United States-Mexico border. Once at
the border, ICE agents direct them to walk towards Mexico to meet with Mexican
officials. These individuals recount that when they spontaneously express some

DECLARATION
(*Rea-Hernandez v. Bondi, et al.*, No. CV25-02609-TL)

- 1

FEDERAL PUBLIC DEFENDER
1601 Fifth Avenue, Suite 700
Seattle, WA 98101
(206) 553-1100

1 unwillingness to enter Mexico, ICE agents take them aside, place them back in the van,
2 and take them back to the detention center. Most of the individuals I have spoken to
3 have been housed at the Otay Mesa Detention Center in San Diego, but I have also
4 spoken to people detained in other border cities.

5 3. During my representation of multiple clients in habeas proceedings in the
6 Southern District of California, I have filed client declarations that recount these similar
7 experiences.

8 4. In at least two of my cases, ICE deportation officers have filed
9 declarations confirming that the Mexican government will only accept the client if he or
10 she willingly goes to Mexico.

11 5. Based on these experiences, it has become clear to me that Mexico has
12 agreed to only accept non-Mexican deportees that enter their country voluntarily.

13 I certify under penalty of perjury under the laws of the State of California and
14 the United States of America that the foregoing is true and correct.

15 DATED this 14th day of January 2026.

16 s/ *Zandra Lopez*

17 _____
18 ZANDRA LOPEZ
19 Declarant
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Exhibit 5

1 Carlos Alberto Izquierdo-Matos

2 [REDACTED]
Otay Mesa Detention Center

3 P.O. Box 439049

4 San Diego, CA 92143-9049

5 Pro Se

6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 CARLOS ALBERTO IZQUIERDO-
11 MATOS,

12 Petitioner,

13 v.

14 KRISTI NOEM, Secretary of the
Department of Homeland Security,
15 PAMELA JO BONDI, Attorney General,
TODD M. LYONS, Acting Director,
16 Immigration and Customs Enforcement,
JESUS ROCHA, Acting Field Office
17 Director, San Diego Field Office,
CHRISTOPHER LAROSE, Warden at
18 Otay Mesa Detention Center,

19 Respondents.

CIVIL CASE NO.:

**DECLARATION OF
CARLOS ALBERTO
IZQUIERDO-MATOS**

20
21 I, Carlos Alberto Izquierdo-Matos, declare:

- 22
23 1. I was born in Cuba in 1956. I entered the United States in 1980 as a refugee.
24 2. I was ordered removed from the United States in May of 2008. After the
25 order of removal, I was detained in immigration custody for many months,
26 but they released me because Cuba did not accept me. I was placed on an
27 order of supervision.
28

3. In June of this year, I received a notice in the mail to report to ICE on July 11, 2025. The notice stated that the reason to report was for a general check-in.
4. On July 11, 2025, I went to the ICE office for the general check-in. I was detained.
5. I was then brought to the Otay Mesa Detention Center where I have been ever since.
6. ICE did give me any reasons as to what has changed to make my removal to Cuba easier. I have never gotten a chance to tell ICE why I should not be re-detained.
7. No immigration officer has talked to me about travel documents for my removal to Cuba.
8. A few weeks ago, I was told to change into my own clothes and to take all of my property. I thought I was going home. But then I was put in a van and was told I was going to Mexico. There were several people in the van from different countries. They took us to the border. I felt intimidated but I said I did not want to go to Mexico. I was placed back in the van and sent back to Otay Detention Center.
9. I have anxiety. I am very stressed and get anxiety attacks from being in here.
10. I have little education and no legal education. I do not have unrestricted access to the internet at my detention facility, so I cannot use the internet to research. I could not file a habeas petition on my own.
11. I do not have money to pay for an attorney. Prior to being detained, I worked as a carpenter for about 10 years making an hourly rate. But I have not worked since I was detained almost four months ago and my bills are piling up, including my rent. I cannot afford to pay an attorney.

//

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//

1 I declare under penalty of perjury that the foregoing is true and correct,
2
3 executed on 10-29-2025, in San Diego, California.

4 
5 _____

6 Declarant
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Exhibit 6

Zandra L Lopez
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101-5030
Telephone: (619) 234-8467
Facsimile: (619) 687-2666
Zandra_Lopez@fd.org

Attorneys for Mr. TAN-GUTIERREZ

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MIGUEL TAN-GUTIERREZ,

Petitioner,

v.

KRISTI NOEM, Secretary of the Department of
Homeland Security, PAMELA JO BONDI,
Attorney General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting Field
Office Director, San Diego Field Office,
CHRISTOPHER LAROSE, Warden at Otay
Mesa Detention Center

Respondents.

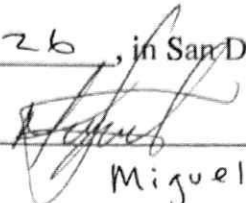
CIVIL CASE NO.:

**DECLARATION OF MIGUEL TAN-
GUTIERREZ**

1 I, MIGUEL TAN-GUTIERREZ, declare as follows:

- 2 1. I was born in Cuba in 1989.
- 3 2. I came to the United States in 2017 and requested asylum. I was detained for about eight
- 4 months pending my case. On October 2, 2017, an immigration judge denied my claim
- 5 and ordered me removed to Cuba. After the court's order, I was detained for about a
- 6 month and a half to two months.
- 7 3. ICE released me under an order of supervision. I was required to report every year. I
- 8 lived in three states and every time I moved, I reported my new address. I always
- 9 complied with what was requested of me.
- 10 4. On November 5, 2025, I went to my annual check in at ICE offices in Miramar, Florida.
- 11 I do not recall receiving a notification that states why my supervision was revoked.
- 12 Aside from telling me I had an order of removal, they did not explain why I was being
- 13 detained. To this day, I have not been given an opportunity to contest my detention.
- 14 5. I spent about two nights at the ICE Miramar office and was then sent to multiple
- 15 detention centers in Florida, I was then sent to Texas, and I am now at the Otay
- 16 Detention Center in San Diego. I tell my wife that I wake up every morning at 2:00 am
- 17 because I have been taken on so many buses and planes. Once they put us on a plane
- 18 and then took us off because the plane could not take off. And then we were taken back
- 19 to the detention center where we slept outside on the floor. I am taken to so many
- 20 different places and sometimes made to spend the night in what we call the freezer. I
- 21 feel like they always have me on the move.
- 22 6. One day in Texas, they took us to the border with Mexico. The Mexican officials told us
- 23 that they were only accepting people that wanted to voluntarily go to Mexico. We told
- 24 them that we were told we did not have a choice and that we did not want to go to
- 25 Mexico. The Mexican officials took our pictures and information and told the ICE
- 26 officials that they would not take us. ICE then took us back to the detention center.
- 27 7. I have friends that are living horrible lives in Mexico. They don't have papers to live in
- 28 Mexico and they are basically stateless and they fear for their lives.
8. I cannot afford an attorney. I worked in construction remodeling homes. The amount of
- money that I make a month varies but I generally make about \$4000 a month. After
- paying rent and daycare expenses for my four-year-old daughter, I don't have much at
- the end of the month.
9. Each lines of this declaration has been read to me in Spanish. I understand them to be
- true and correct

1 I declare under penalty of perjury that the foregoing is true and correct,
2 executed on Jan. 11, 2026, in San Diego, California.

3
4 
5 Miguel Tan-Gutierrez

6 Declarant
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Exhibit 7

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

D.A.M.,

Petitioner,

v.

PAMELA BONDI, et al.,
Respondents.

Case No.: 25-CV-2657-JLS-VET

**DECLARATION OF
JOSE M RUIZ**

I, Jose M. Ruiz, pursuant to 28 U.S.C. 1746, hereby declare under penalty of perjury that the following statements are true and correct, to the best of my knowledge, information, and belief:

1. I am currently employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), as a Supervisory Detention and Deportation Officer (SDDO) assigned to the Calexico suboffice of the ICE ERO San Diego Field Office.

2. I have been employed by DHS as a law enforcement officer since September 27, 2005. I have been serving in the capacity of an SDDO since November 6, 2022. As an SDDO, I am responsible for, among other things, supervising the daily operations of ICE ERO deportation officers assigned to the San Luis Regional Detention Center in Yuma, Arizona and the Imperial Regional Detention Center in

1 Calexico, California and ensuring that those officers are in compliance with all relevant
2 laws, regulations, and policies. I have access to government databases and
3 documentation relating to Petitioner D.A.M. This declaration is based on my personal
4 knowledge and experience as a law enforcement officer and information provided to
5 me in my official capacity as an SDDO for the Calexico suboffice of the ICE ERO San
6 Diego Field Office.

7 3. On December 20, 2024, an immigration judge ordered Petitioner removed
8 to El Salvador but granted his application for Deferral of Removal under the Convention
9 Against Torture. Petitioner remained detained pursuant to 8 U.S.C. 1231.

10 4. On June 3, 2025, Petitioner was transferred from ICE custody in Denver,
11 Colorado to the Imperial Regional Detention Facility (IRDF) in Calexico, California.
12 He was subsequently transferred from IRDF to the San Luis Regional Detention Center
13 (SLRDC) in San Luis, Arizona on November 23, 2025. He is currently detained in
14 Arizona at the SLRDC.

15 5. Since Petitioner's removal order became administratively final on January
16 20, 2025, ERO has worked expeditiously to locate a third country for resettlement and
17 to effect Petitioner's removal to a third country. Because Petitioner was granted deferral
18 of removal as to El Salvador, ICE is not attempting to remove him to El Salvador.

19 6. On September 29, 2025, Petitioner was accepted by Mexico for removal.

20 7. On September 29, 2025, Petitioner was transported to the San Ysidro,
21 California port of entry for removal to Mexico, but refused to be removed. The Mexican
22 consulate informed ICE ERO that Mexico would not accept Petitioner for removal
23 against his will.

24 8. On November 14, 2025, Petitioner was served with a notice of failure to
25 comply with removal dated November 11, 2025. The notice stated that Petitioner had
26 failed to comply with removal. It advised him that, *inter alia*, continued willful failure
27 to refusal to depart from the United States, or any conspiracy or action to prevent his
28 removal, may result in criminal prosecution pursuant to 8 U.S.C. 1253(a). Petitioner

1 refused to sign a written acknowledgement of service.

2 9. On December 2, 2025, the District Court denied Petitioner's petition for
3 writ of habeas corpus, but granted him leave to amend. Dkt. 19. In granting leave to
4 amend, the Court ordered that to preserve the Court's jurisdiction pending a ruling
5 in this matter, Petitioner **SHALL** not be removed from the United States until the Court
6 resolves the case. *Id.* (citations omitted).

7 10. Subsequent to the Court's order, ERO has made no further arrangements
8 to schedule Petitioner for removal to a third country.

9 11. When a third country is identified for resettlement, standard ICE guidance
10 and procedures provide that an ICE officer will provide written notice to the removable
11 alien of the intended third country removal. The written notice identifies which country
12 ICE intends to remove the alien to. ICE will generally wait at least 24 hours following
13 service of the Notice of Removal before effectuating removal. In exigent circumstances,
14 ERO may execute a removal order six or more hours after service of the Notice of
15 Removal as long as the alien is provided reasonable means and opportunity to speak
16 with an attorney prior to removal.

17 12. Once a third country is identified, ICE will provide Petitioner with written
18 notice, and if Petitioner claims a fear of removal to the identified country, he will be
19 referred to an asylum officer for a fear-based screening for eligibility for protection
20 under INA 241(b)(3) and the regulations implementing the Convention Against
21 Torture (CAT) for the country of removal. If an asylum officer determines that an alien
22 with a final order of removal is more likely than not to be persecuted on a statutorily
23 protected ground or tortured in the proposed country of removal, ICE will generally
24 designate another country for removal. ICE may also, in its discretion, move to reopen
25 removal proceedings for the sole purpose of determining eligibility for protection under
26 INA 241(b)(3) and the CAT for the proposed third country of removal. If the asylum
27 officer determines that the alien has not met this standard, the alien will be removed to
28 the third country.

1
2 I declare under penalty of perjury under the laws of the United States that the
3 foregoing is true and correct.

4 Dated: January 12, 2026.

5 **JOSE M RUIZ** Digitally signed by JOSE M RUIZ
6 Date: 2026.01.12 16:55:29 -08'00'

7 Jose M. Ruiz
8 Supervisory Detention and Deportation Officer
9 Enforcement and Removal Operations
10 U.S. Immigration and Customs Enforcement
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Exhibit 8

THE HONORABLE TANA LIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VICTOR ARGENIS REA-
HERNANDEZ,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

No. CV25-2609-TL

DECLARATION OF IRMA ARTEAGA

I, Irma Arteaga, declare the following to be true and correct to the best of my information and belief:

1. I am a United States citizen and legal spouse of Jorge Luis Arteaga Hernandez, a Cuban citizen who, prior to his detention in immigration custody, had resided in the United States under an order of supervision with ICE for twenty years.

2. My husband originally came to the United States when he was 14 years old. He and his mother fled persecution by the Cuban government after his grandmother was imprisoned and tortured. He is now fifty-three and has lived in the United States his entire life. He was originally ordered deported in absentia at the age of 18, because he never received notice of his hearing. He was placed on an Order of Supervision because Cuba would not accept him. While on supervision, my husband became an ordained minister and has been serving the poor and homeless for the past ten years.

3. My husband was detained at his ICE check in about two and a half months ago. He told them that he has three herniated disks, a heart murmur, and a blood

DECLARATION OF IRMA ARTEAGA
(*Rea-Hernandez v. Bondi, et al.*, CV25-2609-TL) - 1

FEDERAL PUBLIC DEFENDER
1601 Fifth Avenue, Suite 700
Seattle, WA 98101
(206) 553-1100

1 condition that requires blood donations to avoid heart attacks. He is the only child of his
2 mother, who has also suffered three heart attacks recently and relies on him for support.
3 Since the time he was originally detained, he has been moved to 10 different prisons,
4 and they have tried to send him to Mexico three times.

5 4. The conditions in the detention centers vary, but are poor. When he was
6 transferred from Texas to Arizona the first time, he was cuffed for seven days. He was
7 not allowed to shower or use deodorant and he was forced to sleep on the floor.
8 Depending on the facility, the rooms can be overfilled. The bathrooms often have
9 visible signs of blood from other people.

10 5. The first time they tried to send my husband to Mexico, they put him on a
11 bus full of immigrants from many nationalities, including Cubans. He was not given a
12 travel document or told he would be sent to Mexico. When the bus arrived at the
13 border, they told people to cross the border to Mexico, where the Mexican National
14 Guard was waiting to receive them. My husband and three other individuals refused to
15 go, so they stayed on the bus and were brought back to the detention center.

16 6. My husband stayed in touch with one of the men who refused to be
17 deported to Mexico. That man was moved to a different jail and ICE attempted to send
18 him to Mexico again. He was beaten so severely that he was eventually removed to
19 Mexico in a wheelchair. He feared he would be hurt more if he did not comply.

20 7. The second time ICE attempted to send my husband to Mexico, they
21 came to his cell to tell him to get on the bus. This time he refused and they did not take
22 him to the bus.

23 8. On January 12, 2026, my husband was visited in his cell at about 4 a.m.
24 by a group of about six or seven fully armed men dressed in black, in security vests and
25 shields. They jumped on him and forcefully dragged him from his cell, nearly breaking
26 his arm. He was forced onto the bus. When they arrived at the border, he dropped to his

1 knees to pray, and urinated on himself out of fear. Because of this, he was placed back
2 on the bus and taken to the jail in Florence, where he was placed in solitary
3 confinement.

4 9. A man from the cell next to my husband heard his cries, and called me at
5 about 5:00 p.m. to inform me about my husband. When I was finally able to talk to my
6 husband, he told me that he had been visited by the psychologist to see if he was
7 suicidal. They were keeping him in solitary because of his reaction at the border.

8 10. My husband has witnessed ICE agents pushing people across the border
9 into Mexico. He has seen them push elderly men in their 70s, with no regard to their
10 health or safety.

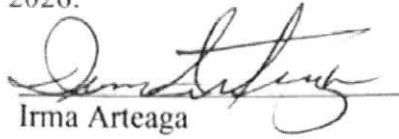
11 11. I am following a group of individuals that are observing the process in
12 Mexico for those people who are sent there but are not Mexican citizens. They are
13 taken in buses by the National Guard for two to three days, where they are either left on
14 the street or taken into custody to be deported to Cuba. They are not given any
15 documents or status in Mexico and are not given any support.

16 12. Today I have received news that they are trying to deport my husband to
17 Mexico again, despite his insistence that he does not want to go to Mexico and despite
18 his fragile mental health.

19 13. My husband was crying like a small child the last time I was able to speak
20 with him. They are trying to break him and others.

1 I certify under penalty of perjury under the laws of the State of Florida and the
2 United States of America that the foregoing is true and correct.

3 DATED this 14th day of January 2026.

4 
5 Irma Arteaga

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DECLARATION
(____ v. Bondi, et al., No.) - 4

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Exhibit 9

ANNALS OF IMMIGRATION

DISAPPEARED TO A FOREIGN PRISON

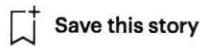
The Trump Administration is deporting people to countries they have no ties to, where many are being detained indefinitely or forcibly returned to the places they fled.

By Sarah Stillman

November 24, 2025



Deportees have been sent to South Sudan, a nation struggling to recover from a civil war, along with Eswatini, where they've been held in a maximum-security prison. Illustration by Anuj Shrestha



One Saturday morning in early September, I got a WhatsApp video call from eleven strangers locked inside a secretive detention camp in a forest in Ghana. Their faces looked glazed with sweat and stricken with fear. In the background, I could hear birdsong and the drone of insects. An armed guard watched over the group as they huddled around a shared cellphone.

“There are big snakes here, and scorpions!” a male voice with an American accent called out.

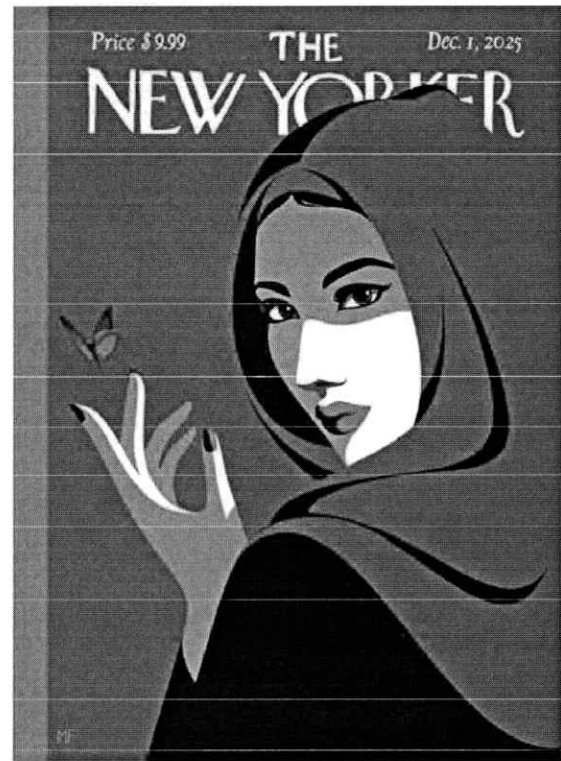
“My stomach is really hurting, and we have to beg for food,” another man said.

A third added, “We fear we’ll be tortured and killed.”

One of the men, a car salesman and a real-estate agent from Miami, whom I’ll call Jim, gave me a tour of the scene: an open-air military complex known as Bundase Training Camp, some forty miles from Accra. “I have five U.S.-citizen children, and they don’t know where their father is,” Jim said.

Our Far-Flung Correspondents: A Centenary Issue

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Just months earlier, one of these men had a job with UPS in Chicago. Another had lived in Houston, where he worked for his mother's catering business, composed R. & B. music, and babysat his little brothers. Some had lived in the U.S. from an early age. Jim, a political refugee, had come to Miami from Liberia in the early nineties, when he was twenty-three, after his parents were murdered for their tribal and political affiliations during the country's civil war. Others, including a twenty-one-year-old woman who had fled Togo fearing genital mutilation, had arrived in the U.S. recently, seeking asylum.

All of them had been taken from the United States against their will. Nearly all had been granted forms of legal relief that bar the government from deporting them to their home countries. At the heart of the protections they'd received was one of the most basic and sacrosanct concepts in both U.S. and international law: non-refoulement. This principle means that no nation should intentionally deport or expel people to a place where they are likely to face torture, persecution, death, or other grave harms.

The forest detainees had got my number from an Atlanta-based immigration attorney named Meredyth Yoon, who works as a litigation director for a nonprofit called Asian Americans Advancing Justice. "Traditionally, we focus a lot on immigration detention, and we engage in advocacy on issues affecting Asian American and Pacific Islander communities," she told me.

But, in recent months, Yoon has had to repeatedly reimagine her work, racing to help community members whose loved ones were seized in large-scale ICE raids and working to defend lawful immigrants from unlawful deportations. This spring, she'd agreed to represent Jim after learning that he'd been held in an ICE processing center in Folkston, Georgia, for more than two years. Jim had won asylum and become a lawful permanent resident of the U.S. in the nineties. But, in 2011, he'd been convicted of bank fraud and, more than a decade later, ICE had initiated removal proceedings against him and detained him.

In late summer, Yoon learned that ICE had moved Jim to its Alexandria Staging Facility, in central Louisiana, from which detainees tend to get deported. Yoon contacted ICE to find out where the agency was planning to send him. ICE never answered her e-mails. At that point, Yoon told me, "more alarm bells started going off."

Then, on the morning of September 8th, Jim called Yoon in a panic. "I'm in Ghana!" he cried out. Yoon scrambled to gather information on Jim and the other detainees who were being held with him. Four days later, she and her colleagues filed an urgent lawsuit, sketching the life-or-death fears of five of them. The next morning, I received the call from all eleven individuals held in Bundase Training Camp, who asked me to describe their plight. "They didn't tell us where we were going," Jim said that morning. "They just kidnapped us overnight and whisked us out."

For months, I had been trying to document the Trump Administration's secretive third-country removals. At first, getting access to any information was daunting. Some of the deportees were held in far-off prisons or detention sites; others had gone into hiding. Friends and relatives in the U.S. often felt terrified of speaking out, fearing retaliation. "I don't know that the piece you're contemplating is necessarily writable right now," a leading lawyer on the topic, Anwen Hughes, of the advocacy group Human Rights First, wrote to me in late July.

Initially, I'd focussed on two groups of third-country deportees, known to human-rights lawyers as the South Sudan Eight and the Eswatini Five. The first group, from countries including Myanmar, Mexico, and Laos, had been deported, in early July, to South Sudan, a nation struggling to recover from a civil war. Days later, the second group—five men from Cuba, Jamaica, Laos, Vietnam, and Yemen, all of whom had lived in the U.S. for many years—had been deported to the southern African nation of Eswatini, formerly known as Swaziland. There, they were detained in a maximum-security prison, without clear justification.



"And this is my room. My parents kept it the way it was when I was little."

Cartoon by Pia Guerra and Ian Boothby

These deportees appeared to have been handpicked by the Trump Administration to test a new approach to mass deportation. According to the Department of Homeland Security, all of them had been convicted of serious crimes, including murder. Announcing the flight to Eswatini, Tricia McLaughlin, a spokesperson for D.H.S., had called the five deportees "so uniquely barbaric that their home countries refused to take them back," a claim that at least one of the countries disavowed. Arguably the most surprising part of these early removals was also the least understood. It wasn't just that these men were being sent to nations where they had no ties, and to places that were not safe. It was also that, in many cases, men who had completed their sentences in the U.S. years ago were now being subjected to indefinite detention abroad.

The wider strategy of forced third-country transfers had clear policy roots. On January 20th, the first day of Donald Trump's second term, Trump issued an executive order called "Securing

Our Borders,” which, among other things, declared an intention to expand the use of third-country deportations. On February 18th, D.H.S. issued an internal guidance memo, instructing immigration officers to “review for removal” all cases “on the non-detained docket”—meaning anyone with an immigration case who was not in ICE custody. As part of this review, D.H.S. officials would “determine the viability of removal to a third country”—and, if they found that third-country removal was viable, attempt to detain the person. The first large-scale third-country removals occurred that month and targeted newly arrived asylum seekers. Between February 12th and 15th, the U.S. sent two hundred and ninety-nine people—from countries such as Afghanistan, Cameroon, Somalia, and Iran—to Panama. On February 20th and 25th, the U.S. sent an additional two hundred people, including eighty-one children, to Costa Rica. Soon afterward came third-country-deportation flights to Uzbekistan and El Salvador, where more than two hundred and fifty non-Salvadoran immigrants were detained in the brutal Terrorism Confinement Center, also known by its Spanish acronym, CECOT. Some of the men held at CECOT were transferred there as part of another third-country-removal experiment: the President declared that the U.S. had been “invaded” by the Venezuelan gang Tren de Aragua, authorizing the removal of supposed gang members. (In June, U.S. District Judge James Boasberg found that the government had violated the rights of those men by not giving them an opportunity to challenge their deportations.)

In late March, a young, gay Guatemalan asylum seeker, known to the court as O.C.G., filed a class-action lawsuit with several other plaintiffs, challenging the new policy of deporting people to third countries without meaningful notice or a chance to contest their removal. According to the complaint, O.C.G. had fled Guatemala because of “multiple death threats on account of his sexuality.” An immigration judge barred his deportation to Guatemala. The Department of Homeland Security then placed him on a bus with some twenty other men and, without issuing a new removal order, deported the group to Mexico. O.C.G. was not able to protest that he also feared persecution and torture in Mexico, where he’d been held hostage and raped while on his journey to the U.S. The lawsuit, known in the courts as *D.V.D. v. D.H.S.*, became the primary legal battlefield for an urgent question: Can the government deport people to third countries without giving them an opportunity to claim that they could be tortured or killed there?

In April, a Massachusetts federal judge, Brian E. Murphy, issued a preliminary injunction, saying that the government must grant people at least fifteen days to challenge third-country deportations. But two months later the Supreme Court granted a stay, reversing Murphy’s order. (Using the so-called shadow docket, the Court offered no public explanation of its

reasoning.) The result is that, for now, D.H.S. can deport people to countries not listed on their removal orders without giving them any notice. Justices Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson dissented, decrying the government's "flagrantly unlawful conduct." Sotomayor wrote, "In matters of life and death, it is best to proceed with caution."

McLaughlin, the D.H.S. spokesperson, had a different response: "Fire up the deportation planes." Shortly after the ruling came down, ICE deported the South Sudan Eight and the Eswatini Five. Among those sent to Eswatini was Orville Etoria, a sixty-two-year-old man who'd lived in New York for nearly fifty years.

In late August, I met with Etoria's aunt Margaret McKen at her home in Canarsie, Brooklyn. A professor at Hunter College's School of Education, McKen confessed that she was reluctant to talk with me. (I agreed to use her maiden name.) "I've been a naturalized citizen for thirty years, and I don't even have a parking ticket, but you never know what they can do to you," she said. "I've started to have a phobia that ICE will come and break down my door."

Still, McKen felt that the public ought to know what had happened to her nephew, and who he was. Born in Jamaica, Etoria came to Brooklyn at the age of twelve, in 1976. He lived with his mother in Crown Heights, where she worked at a day-care center. As a young adult, Etoria suffered from psychiatric problems. In 1997, he was convicted of second-degree murder, for shooting a man in a leather-goods store, and received a sentence of twenty-five years to life. Eventually, an immigration judge issued an order of removal against him, meaning that he could be deported once he got out of prison.

Etoria had been convicted of a serious crime, but, McKen said, he had evolved as a person. While incarcerated, Etoria had earned a bachelor's degree in behavioral science and worked toward a master's in divinity. After his release, in 2021, he got a job at a homeless shelter in Queens, helping to get health care and housing for men who needed support, as he once had. He lived in a three-story brownstone, which he shared with his mother and one of his two adult sons.

They were a close-knit family, McKen told me, noting that, upon his release, Etoria had cared for his mother through a terminal illness. "When Orville was in prison, his mom was like the mailman—rain, sleet, or snow, she'd always travel to see him," McKen said. "When he came home, he eased his mother's burden, cleaning the house, buying groceries, and cooking her oxtail and salmon." More recently, McKen recalled, "He got a car, and he told me, 'I'm paying

my own water bill!’ ”

At a routine ICE check-in this past spring, an agent told Etoria that he had ninety days to prepare his Jamaican passport. Shortly after he reported back to ICE, in June, McKen got a call from one of Etoria’s sons, saying, “They detained him and he’s not coming home!” She tracked Etoria’s whereabouts, using ICE’s online locator, as he was transferred from Manhattan’s Federal Plaza to Orange County, New York, and then back to Manhattan. She arranged for relatives in Jamaica to prepare a place for him to stay, in case he was sent back there.

Then Etoria vanished from the ICE tracker. McKen panicked. “God, are you going to send us a message?” she asked. He had been missing for more than two weeks when, one morning, McKen looked at her phone and saw an image that made her jump: Etoria’s face, in an online news dispatch. McKen clicked on the story. She found her way to McLaughlin’s announcement that Orville and four other “barbaric” men had been deported to Eswatini.

“Orville isn’t a monster,” McKen told me. “We get it—we know what he did was wrong. We raised our children to respect that there are consequences. But, if you paid for those consequences once already, why a second time? It’s a political ploy, to keep us in line. It’s them saying, ‘I have the power to destroy you.’ ”

McKen called the office of Jamaica’s Minister of Foreign Affairs and Foreign Trade and learned that the country had not declined to take Etoria back. The minister implied online that the government had not even been asked. McKen couldn’t reach Etoria in Eswatini. “We are wondering if we will ever see him alive again,” she said.

McKen wondered, too, who else the Trump Administration might deport this way. It had started off its third-country removals with men like Etoria, who had served out criminal sentences. But soon she saw more third-country removals unfolding in the news, affecting a broader group. Less than a week after our conversation, news broke about the third-country deportations to Ghana, which included men and women who’d never been charged with any crime.

On September 12th, Meredyth Yoon and her colleagues filed their lawsuit on behalf of five of the people who’d been sent to Ghana. The attorneys pleaded that their clients were “now in immediate danger of being sent on, within hours, to their countries of origin,” despite the fact that immigration judges acknowledged that they would likely face persecution or torture there.

Late that night, I spoke to Yoon. She told me, “It’s absolutely shocking and illegal. And it fits

this Administration's general pattern—draconian, cruel processes that create a spectacle and coerce people into leaving of their own accord." She added, "I hope we can do something. I hope we can stop this train."

The next morning, I received the call from Yoon's clients in the Ghanaian military camp. "Here, it's all bushes and forest," Jim told me. He wanted to start his story back in Louisiana, where a violent removal operation had taken place in the dark on September 5th. "They came to our cell," he said, "and woke us in the middle of the night."

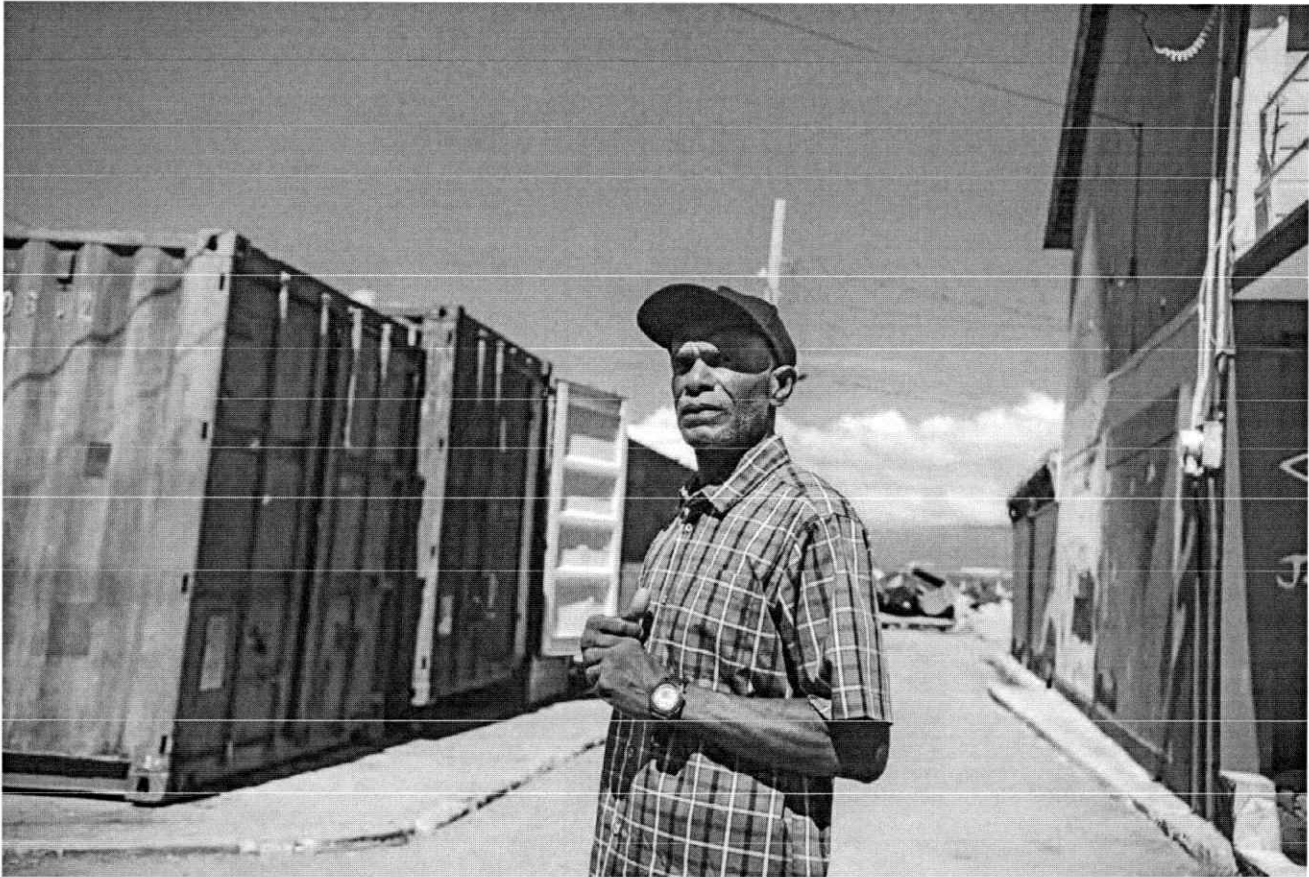
Jim had asked the agents where they were taking him. They refused to answer. "I need to talk to my attorney," Jim said, adding, as Yoon had advised, "I fear for my life if sent back to Liberia." An agent called over a group of colleagues. "They punched me—I have bruises right now from it—and they kicked me," Jim told me. "Then they put me on the ground, handcuffed me, and put me in a straitjacket." He'd wept as they dragged him through the dark onto a tarmac. Other men in full-body restraints and chains were also being forced onto the flight, screaming and crying.

"Sir, all I asked is to speak to an attorney because I fear for my life," Jim repeated. At that point, he told me, the agents carried him "like cargo" onto the military plane. "That's what you get for not coöperating," one of the agents said, according to Jim.

As Jim spoke, other men crowded around the phone, calling out similar stories. A heavyset Chicago resident, T.L., confirmed the violence of ICE's initial removal. "They beat me up and punched me to the ground," T.L. told me. He'd come to the U.S. years ago, fleeing political persecution in Nigeria. He made a good life for himself in Chicago, and had children; he found work as a cleaner in a hospital and at UPS. But, in 2022, he was sentenced to two and a half years in federal prison, for bank fraud. When he got out, he said, ICE agents instantly detained him.

T.L. fought his deportation, and a judge granted him relief under the Convention Against Torture (CAT), agreeing that T.L. was "more likely than not" to face torture in Nigeria and barring the government from sending him back there. Protection by way of CAT—and a similar status known as "withholding of removal"—doesn't include the full benefits of asylum, such as a path to citizenship. But typically, under both Republican and Democratic Administrations, people granted these forms of relief have been allowed to keep living in the U.S. Technically, they could be deported to a country where they did not have credible fears of torture or persecution, but that rarely happened, and, when it did, it required a series of careful steps.

(The American Immigration Council has attested that a mere 1.6 per cent of people who were granted withholding of removal in 2017 were deported to a third country that year.) Clear due-process rights governed such removals. “But then, when the ICE agents came for me,” T.L. said, “no laws worked.”



Orville Etoria, who'd lived in New York for nearly fifty years, was deported to a prison in Eswatini before being returned to his home country of Jamaica. Photograph by Destinee Condison for The New Yorker

T.L. told me that he refused to board the ICE flight on September 5th without speaking to his attorney. He said that he'd also been placed in full-body restraints and dragged onto the plane by ICE agents. T.L. and Jim both told me that the agents had said, “Either you go the easy way or you go the hard way.” Trump used similar phrasing earlier this year, in a promotional video for a new Customs and Border Protection app that allows immigrants to declare their intent to self-deport, saying, “People in our country illegally can self-deport the easy way or they can get deported the hard way, and that’s not pleasant.”

In a statement to *The New Yorker*, McLaughlin, the D.H.S. spokesperson, said, “Any claim that ICE personnel ‘beat,’ ‘kick,’ or ‘drag’ detainees or use ‘straitjackets’ is categorically false.” She also wrote, “Every single detainee receives due process. Get a grip.” Of the people who were sent to Ghana, she added, “Many of these were heinous criminals with rap sheets that

included injury to a child, robbery, aggravated assault, and fraud.”

But the group in Bundase Training Camp also included people such as D.A., a Nigerian human-rights advocate who’d never been convicted of a crime. In Nigeria, his work on behalf of tribal groups facing displacement by the government had led to death threats. Eventually, he’d sought asylum in the U.S., and an immigration judge granted D.A. protection from deportation to Nigeria through CAT, affirming his fear of torture. But, on September 5th, he said, he was beaten and forced onto the flight. D.A. recalled an ICE agent telling him, “Your ass is getting on the plane.” He responded, “You’re abusing your badge.”

As we spoke, D.A. looked terrified. “I did everything possible to try to do the right thing,” he told me, emphasizing that he’d followed U.S. asylum law. He is married to a U.S. citizen from Texas. “Today, they brought a Nigerian officer from the consulate to see me!” he said. “I want the people of the United States to know my life is in danger—not just back home in Nigeria but also in Ghana.”

As D.A. and others panned the camera across the camp, I noticed several women standing in the group. I asked if they, too, wished to speak. A woman whom I’ll call Miriam stepped forward. She had lived in Lomé, the capital city of Togo, where, she explained, in a warm, gentle voice, she’d studied marketing, earning bachelor’s and master’s degrees, and hoped for a career in the import-export business.

But, when Miriam was in her twenties, her life took a turn. Her relatives expected her to return to her father’s ancestral village, to submit to ritual genital mutilation. She refused and escaped to Ghana, where, she said, an uncle offered her protection but raped her instead. She tried hiding in another city in Togo, she recounted, but relatives found her there and tortured her for days. Finally, Miriam fled to the U.S., taking a flight to Brazil and trekking across more than a dozen borders to reach Texas. “I fought as best I could,” she told me. An immigration judge in Arizona granted her withholding of removal. She assumed this meant safety. “But instead they just deported us,” she said.

Miriam ushered forward the youngest person in the group, a slender woman with braids who stood there putting on a brave face. “She’s only twenty-one years old,” Miriam said, of the woman, who was also from Togo.

The twenty-one-year-old waved. She did not speak English, but others interpreted. She’d arrived in the U.S. seeking asylum last November. An immigration judge granted her

withholding of removal. I later obtained her account in writing, translated by another detainee. "I was forced to go through female genital mutilation for them to give me to an old man for a marriage which I refused," it read. "I ran to the U.S. to save my life."

One result of the surge in third-country deportations has been the creation of a detective agency of sorts, comprising attorneys, human-rights groups, and flight-tracking experts. Together, they've been trying to solve the mystery of who is being deported, and to where, and when.

The flight trackers are often the first to warn that a deportation is afoot. Their digging originated with the work of a retired JPMorgan Chase executive named Tom Cartwright, who, in 2020, took up a new volunteer effort: using publicly available aviation data to track ICE flights. Human Rights First has formalized and expanded Cartwright's log, tallying more than seventeen hundred deportation flights in the first nine months of the second Trump Administration. "Just keeping up has been a monumental effort," Savitri Arvey, a refugee-protection expert working on the project, told me.

Arvey gave me an example. "Late Wednesday night, there was a flight out of J.F.K. with all the characteristics of a third-country removal to Uzbekistan," she told me. "It wasn't the normal flight number for flights to Uzbekistan, and we saw that the plane was parked on the tarmac, not at the gate, and it left six hours late," she said. "The stars align with a repatriation, but we're digging to get confirmation, since it's all been a mystery." Unless a person on a deportation flight calls someone in the U.S., Arvey said, that person's fate remains "a total black hole."

The State Department declined to comment on the details of its diplomatic communications with other governments. But the U.S. has reportedly sought third-country-deportation agreements with nations including Ukraine, Libya, Saudi Arabia, Uganda, and Kosovo, sometimes threatening countries with economic or diplomatic consequences if they don't oblige. In court, ICE has invoked agreements for which no records were apparent. I obtained a sworn declaration from an ICE officer which stated that "the U.S. Department of State currently has a valid agreement with Bolivia to accept third country removals." The officer attested that ICE had served a young Colombian woman with "notice of removal to Bolivia" and that D.H.S. had scheduled her flight. But the woman's lawyer told me that she could find no public reports or evidence of such a deal. The lawyer won her client's release after an ICE official admitted in court that the woman could not, in fact, be sent to Bolivia.

The financial incentives driving these agreements have also been hidden from public view. Last March, the Trump Administration paid El Salvador more than four million dollars to imprison non-Salvadoran deportees. But in most places the numbers remain undisclosed. I obtained a copy of the “memorandum of understanding” that the U.S. government signed with Eswatini, revealing that the U.S. had agreed to pay the country more than five million dollars in exchange for accepting up to a hundred and sixty foreign-national deportees. I also reviewed a copy of the deal struck with Rwanda: in that instance, the U.S. pledged \$7.5 million in exchange for taking up to two hundred and fifty deportees. Both Eswatini and Rwanda made a commitment to “prevention of refoulement.” In June, two activist groups, the National Immigration Litigation Alliance and Refugees International, sued the State Department, seeking the release of deportation agreements with a half-dozen countries. In the lawsuit, which is ongoing, the groups argue that the government shirked its duty to fulfill their Freedom of Information Act requests, leaving critical information “shrouded from public view.”

In Eswatini, where Orville Etoria and four other men had been detained, Etoria’s family and a group of U.S. advocates found a local lawyer named Sibusiso Magnificent Nhlabatsi to take up their cause. “These men haven’t committed any crime in Swaziland, and they finished their sentence in the U.S., so under what circumstances are they being detained without access to counsel?” Nhlabatsi asked me in September. “It’s a textbook case of kidnapping and human trafficking, at the center of which is the United States, with Swaziland as an active accomplice.”

When Nhlabatsi first went to visit the men, he told me, “I thought I’d walk into the prison, see these men, help out, and that would be the end of the matter.” But the prison deputy denied him access to them, saying that they hadn’t yet had a chance to reach their families. Nhlabatsi returned the following week, and was told to come back the next day. When he returned again, he was informed that the men had refused to see him. Later in the day, Etoria and the others called home, and all said that they had not been told of such a visit.

On July 31st, Nhlabatsi filed a habeas petition in a court in Eswatini, asserting the men’s right to legal counsel. “The right to legal representation is not a privilege to be granted at the convenience of the correctional services, but a non-negotiable right that attaches from the moment of detention,” he wrote. But, on multiple occasions, the government ignored its legal deadline to respond to the case. When Nhlabatsi was slated to appear in court in mid-September, the court went into recess without informing him. “These men have a right to a

fair hearing, and the right to be presumed innocent, and the right to a speedy trial,” Nhlabatsi told me. “I cannot let this injustice go unchallenged.”

Nhlabatsi was frustrated. He knew, too, that he was risking his life to stand up for these men. In 2023, his mentor, a prominent human-rights lawyer and pro-democracy activist named Thulani Maseko, was shot dead in front of his wife and children, after years of advocating for an end to Eswatini’s monarchy. Now that Nhlabatsi was in the local press defending the U.S. deportees’ basic right to counsel, he was getting regular calls from friends. “They weren’t encouraging me,” Nhlabatsi told me. “They were saying, ‘Are you sure you’re safe?’ ”

Then, in late September, I got an update from Etoria’s lawyer in Brooklyn, Mia Unger, of the Legal Aid Society. He had just been released, and was the first person to make it out of Eswatini’s black site. He was nervous about speaking out—the Trump Administration had described him to the public as “barbaric,” and he worried about the repercussions for his family. But, eventually, he decided that he would talk to a journalist for the first time.

When I reached Etoria, I learned that he had been my near-neighbor in Brooklyn. We spent our weekends in the same parts of Prospect Park, enjoying the people-watching. “I love Eastern Parkway—just sitting on the benches under the trees in the summertime, watching kids go by on their bikes and families hanging out,” he told me. “New York is what I know.”

When Etoria showed up to his ICE check-in last June, he knew immediately that things had changed. “I gave my passport to the officer, and he said, ‘Step to the back wall,’ ” he told me. At 26 Federal Plaza, in lower Manhattan, he slept on the floor. “That place was too filthy for any human being to live,” he said. From there, he was punted between ICE facilities and finally taken to the El Paso Service Processing Center, in Texas.

The true shock came soon after. On July 14th, Etoria was called down to intake with a group of men of diverse nationalities. He assumed that they’d be deported to their respective countries. They walked onto the tarmac. “For real, I thought I was going to Jamaica,” Etoria told me. “Why would I think I was going anywhere else?”

The men boarded the ICE flight in shackles. The idea of returning to Jamaica felt, to Etoria, like “an unimaginable loss.” Someone asked, “Where are we going?” An agent replied, “The first flight is six hours, and then the second flight is eight hours.” Etoria felt his stomach drop. They stopped in Djibouti, where the men were transferred onto a military cargo plane. “It was

like something you'd see in a movie, as if we were some notorious gangsters," Etoria said. Roughly a half hour before that flight landed, the men learned their true destination. "The officer came around wanting us to sign a paper saying we agreed to go to Eswatini," he told me. "I'd never even heard of Eswatini!" Panicked, he refused to sign.

"We all expressed the same disconnect from reality in that moment," Etoria said. He told me that an ICE official had snapped paparazzi-style photographs as he stepped off the plane, still wearing chains. He felt like an unwilling prop in an ad for the Trump Administration. "You could tell it was a charade, all for show, so that they could use it and say, 'Look what we did,' " he said.

"To be honest," Etoria added, "it helped me imagine how the slaves might have felt, going to another land in shackles and chains—that loneliness, that disconnect, that sense of loss."

Local guards shuttled the group to Matsapha Correctional Complex, a maximum-security prison. No one explained the grounds on which the men were being held. At first, Etoria said, the guards treated the U.S. deportees with suspicion. "They'd seen a military plane come onto their land—the kind of plane that drops bombs on people and takes troops to war—and they were told, 'These five men are people to be afraid of.' But, over time, we conversed with the guards, and they could see that they'd been lied to about who we really were." Soon, the guards gave the men a chessboard. They fielded Etoria's complaints about the food, although it hardly improved. "For the first three days, we ate only porridge, and I raised my hand real quick and said, 'No more!' " Etoria told me.

The Eswatini Five had only occasional monitored calls to their families and little to no access to their lawyers in the U.S. Mostly, they spent time in their cells. "We looked up at the ceiling a lot, and we talked about our families," Etoria said. "We tried to help each other release the thoughts that were inside of us that were screaming to come out, the things that meant the most to us, and family was the No. 1 thing. The second-biggest thing was realizing that our lives had meaning—that we weren't the bad, bad people that society had told us we were."



"Everything we're eating was trapped by Rufus."

Cartoon by Michael Maslin

Weeks passed. One day in late summer, officials from the International Organization for Migration visited the group. They brought "mental-health" provisions: badminton equipment, a basketball, Ping-Pong paddles, and five novels. Etoria stressed that what he really needed for his mental health was freedom. Soon after, he said, I.O.M. informed him that he would soon be able to return to Jamaica. On September 21st, he boarded the first in a series of four commercial flights that brought him to the island. No one knows how much money the U.S. government spent on this elaborate detention detour to Africa.

In Jamaica, Etoria has wondered about the men left behind: the Eswatini Four. They remain imprisoned without explanation, and without clear paths to repatriation. Ten more people have been added to the group. "There is something sinister going on here, and something has been taken from my spirit that I might never get back," Etoria said. In mid-October, his Cuban cellmate, Roberto Mosquera del Peral, began a monthlong hunger strike. "Roberto is an unbelievably kind dude, who likes to analyze stuff with a critical mind," Etoria said. Mosquera del Peral's attorney, Alma David, of Novo Legal Group, told me during the strike,

“I’m very worried—he has been in pain and looks very thin.”

Eswatini has continued to rebuff Nhlabatsi’s attempts to meet with the detained people. He finally won his habeas case in front of a judge, only to have the government file an appeal. In response to Mosquera del Peral’s hunger strike, Eswatini issued a press release. “The third country national was found to be in good health and spirits,” it read. “He did, however, mention that he was currently fasting and praying because he was missing his family.”

When we spoke recently, Etoria was hunkered down without electricity in the home where he’s been living in Jamaica. His phone was dying, and Hurricane Melissa—a Category 5 storm—was headed toward the island. He worried about not having stocked up on groceries. “I’ll just rough it out,” he told me. Since landing in Jamaica, he said, he has felt completely lost. “I’m trying to catch up, trying to fit in, but, at my age, it’s not easy to get a job here,” he said.

Etoria hopes that, at some point, he can confront the U.S. government about his treatment. But, even more so, he wishes that he could speak to African leaders, as a Black man who feels he was sent across the Middle Passage in reverse. “I want to say, to all the African nations who are taking people into their country in chains and shackles, it’s not a good picture,” he said. “You’re hurting these people, spiritually and emotionally. I don’t just want Eswatini to hear it. I want Ghana to hear it. I want South Sudan to hear it. I want Rwanda and Uganda to hear it.” He paused. “Please,” Etoria said, “let the Trump Administration take care of its own dirty work.”

On a recent evening, I spoke again to Meredyth Yoon, who told me that another deportation flight from the U.S. to Ghana—she believed it to be the fourth—had just landed. Among the latest deportees was a Maryland nurse named Rabbiatu Kuyateh, who’d lived in the U.S. for roughly thirty years and has never faced criminal charges. Kuyateh had won withholding of removal, convincing an immigration judge that she’d likely face serious harm in her native Sierra Leone. Even so, she was shackled and sent to Ghana, where she and others were held under armed guard at a hotel near Accra. Yoon had been on the phone with Kuyateh and other detainees, she said, when Ghanaian officials came to the hotel and dragged Kuyateh away. They put her on a flight to Sierra Leone.

Since we’d first spoken, Yoon had been trying to defend the rights of dozens of people who’d been deported to Ghana. In mid-September, she and her colleagues had appeared in U.S. district court, where they argued that members of the first group of deportees should be returned, swiftly, to America. At the time, eleven men and women were still held at Bundase

Training Camp; they were hearing rumors that at any moment they could be sent back to their home countries, from which the U.S. government had promised them protection. “There is still time to act,” Lee Gelernt, who had joined the case from the American Civil Liberties Union, had pleaded. “We would implore you to do some kind of relief now.”

The Justice Department attorney, Elianis Perez, did not contest the basic fact of the removals. Instead, she insisted that the U.S. had obtained “diplomatic assurances” that Ghana would comply with the Convention Against Torture and other safeguards. Yet one member of the group—a bisexual Gambian man who had been granted protection under CAT by a U.S. immigration judge—had already been returned to his home country.

“How is that O.K.?” the judge, Tanya Chutkan, asked.

“Your Honor, the United States is not saying that this is O.K.,” Perez replied. “What the government has been trying to explain to the court is that the United States does not have the power to tell Ghana what to do.”

Two days later, Chutkan issued her decision. The deportations “appear to be part of a pattern and widespread effort to evade the government’s legal obligations by doing indirectly what it cannot do directly,” she wrote. Even so, she concluded, her “hands are tied.” The court lacked the jurisdiction to prevent Yoon and Gelernt’s clients from being deported by Ghana to their home countries. The resulting policy, Gelernt told me, is “unprecedented and wholly at odds with the humane discretion exercised by past Administrations of both parties.”

I wondered what would become of the terrified men and women I’d talked to in Bundase Training Camp. I soon found out. When I got hold of Jim, in early October, he and nine of the other people I’d spoken with had been placed in vehicles and driven out of the camp, to the border of Togo. Among them was Miriam, who feared torture or death if she was forced to return there, and the twenty-one-year-old Togolese woman who had also fled genital mutilation.

“Right now, we’re in Togo illegally!” Jim told me. He explained that Ghanaian immigration officials had left the group with Togolese officials who, rather than affording them proper documentation, had pushed them quietly across the border. “They passed us through the back door into Togo, but we aren’t invisible, and we’re an easy target for the cops,” he said. “We don’t speak the language here, and we have no money.” His family had tried to send him funds through Western Union. But he couldn’t easily obtain them, he said, because the U.S.

government had confiscated his I.D. He and others in the group had to beg strangers to get the funds, for a cut of the cash.

Jim told me that he was trying to stay indoors, for fear of being detained or extorted by officials in Togo. But, on occasion, he'd been sneaking out to the ocean, to listen to the waves. He worried most about the Togolese women in their group. "They cried so helplessly, and they were scrambling and running for their lives," Jim told me. "They've gone underground."

A few days later, I spoke to Miriam, who was hiding in a boarding room. A local journalist had learned Miriam's real name and published it on social media. Soon afterward, her cousin began receiving ominous calls from strangers, asking, "Where is Miriam?" She sobbed as we spoke.

"This morning, I drank a porridge, and it's the only food I've had," she told me. In her hiding place, she'd been rehashing her trajectory. She'd been shipped like cargo "from Arizona to Louisiana, and then Louisiana to Ghana, and then Ghana to Togo," she said. "ICE treated us like animals, handcuffed us, and wouldn't let us eat—just bread and water."

At Bundase Training Camp, "they didn't tell us that they would take us to Togo," Miriam continued. She had tried to confront the Ghanaian officials as they shoved her group across the border. "Why are you doing this? You're supposed to protect us, as a third country!" Miriam pleaded. An officer, she told me, said, "Shut up. We have to respect the orders we were given." Some of the detained men were told they'd be shot if they tried to escape.

Back in May, Miriam told me, she'd been elated to receive protection from a U.S. immigration judge. She thought that this offer of refuge was what defined the United States. It was true, I told her. After the last British ship left New York Harbor in 1783, George Washington and his officers famously made a toast: "May America be an Asylum to the persecuted of the earth!"

"As I'm talking to you right now, I don't know what will happen to me," Miriam said. But, for the moment, she had one wish: "I need other people to know that this is my true condition. I am not free." ♦

Published in the print edition of the December 1, 2025, issue, with the headline "Disappeared."

Exhibit 10

PLAINTIFFS' EXHIBIT NO. 2CASE NO. PX 25-951IDENTIFICATION: JUL 10 2025ADMITTED: JUL 10 2025

To All ICE Employees
July 9, 2025

Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)

On June 23, 2025, the U.S. Supreme Court granted the Government's application to stay the district court's nationwide preliminary injunction in *D.V.D. v. Department of Homeland Security*, No. 25-10676, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), which required certain procedures related to providing a "meaningful opportunity" to assert claims for protection under the Convention Against Torture (CAT) before initiating removal to a third country. Accordingly, all previous guidance implementing the district court's preliminary injunction related the third country removals issued in *D.V.D.* is hereby rescinded. Absent additional action by the Supreme Court, the stay will remain in place until any writ of certiorari is denied or a judgment following any decision issues.

Effective immediately, when seeking to remove an alien with a final order of removal—other than an expedited removal order under section 235(b) of the Immigration and Nationality Act (INA)—to an alternative country as identified in section 241(b)(1)(C) of the INA, ICE must adhere to Secretary of Homeland Security Kristi Noem's March 30, 2025 memorandum, *Guidance Regarding Third Country Removals*, as detailed below. A "third country" or "alternative country" refers to a country other than that specifically referenced in the order of removal.

If the United States has received diplomatic assurances from the country of removal that aliens removed from the United States will not be persecuted or tortured, and if the Department of State believes those assurances to be credible, the alien may be removed without the need for further procedures. ICE will seek written confirmation from the Department of State that such diplomatic assurances were received and determined to be credible. HSI and ERO will be made aware of any such assurances. In all other cases, ICE must comply with the following procedures:

- An ERO officer will serve on the alien the attached Notice of Removal. The notice includes the intended country of removal and will be read to the alien in a language he or she understands.
- ERO will not affirmatively ask whether the alien is afraid of being removed to the country of removal.
- ERO will generally wait at least 24 hours following service of the Notice of Removal before effectuating removal. In exigent circumstances, ERO may execute a removal order six (6) or more hours after service of the Notice of Removal as long as the alien is provided reasonable means and opportunity to speak with an attorney prior to removal.
 - Any determination to execute a removal order under exigent circumstances less than 24 hours following service of the Notice of Removal must be approved by the DHS General Counsel, or the Principal Legal Advisor where the DHS General Counsel is not available.

- If the alien does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the Notice of Removal within 24 hours, ERO may proceed with removal to the country identified on the notice. ERO should check all systems for motions as close in time as possible to removal.
- If the alien does affirmatively state a fear if removed to the country of removal listed on the Notice of Removal, ERO will refer the case to U.S. Citizenship and Immigration Services (USCIS) for a screening for eligibility for protection under section 241(b)(3) of the INA and the Convention Against Torture (CAT). USCIS will generally screen the alien within 24 hours of referral.
 - USCIS will determine whether the alien would more likely than not be persecuted on a statutorily protected ground or tortured in the country of removal.
 - If USCIS determines that the alien has not met this standard, the alien will be removed.
 - If USCIS determines that the alien has met this standard and the alien was not previously in proceedings before the immigration court, USCIS will refer the matter to the immigration court for further proceedings. In cases where the alien was previously in proceedings before the immigration court, USCIS will notify the referring immigration officer of its finding, and the immigration officer will inform ICE. In such cases, ERO will alert their local Office of the Principal Legal Advisor (OPLA) Field Location to file a motion to reopen with the immigration court or the Board of Immigration Appeals, as appropriate, for further proceedings for the sole purpose of determining eligibility for protection under section 241(b)(3) of the INA and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.

Notably, the Supreme Court's stay of removal does not alter any decisions issued by any other courts as to individual aliens regarding the process that must be provided before removing that alien to a third country.

Please direct any questions about this guidance to your OPLA field location.

Thank you for all you continue to do for the agency.

Todd M. Lyons
Acting Director
U.S. Immigration and Customs Enforcement

Attachments:

- U.S. Supreme Court Order
- Secretary Noem's Memorandum
- Notice of Removal

Exhibit 11

THE HONORABLE TIFFANY M. CARTWRIGHT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Phong Thanh Nguyen,

Petitioner,

v.

Bruce SCOTT, Warden, Northwest ICE
Processing Center; Camilla WAMSLEY,
Enforcement and Removal Operations,
Seattle Field Office Director, U.S.
Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S. Department
of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

Civil Case No. 2:25-cv-01398-TMC-SKV

**DECLARATION OF TIN THANH
NGUYEN IN SUPPORT OF PHONG
THANH NGUYEN'S MOTION FOR A
PRELIMINARY INJUNCTION**

**NOTED FOR CONSIDERATION:
AUGUST 14, 2025**

DECLARATION OF TIN THANH NGUYEN

I, Tin Thanh Nguyen, declare and state, as follows:

1. I make this declaration based on my personal knowledge and, if called to testify to these facts, could and would do so competently.

2. I submit this declaration in support of Mr. Phong Thanh Nguyen's motion for a preliminary injunction.

3. I am a licensed attorney in the state of North Carolina and in good standing with

DECL. OF T. NGUYEN ISO PRELIMINARY INJUNCTION - 1
Case No. 2:25-cv-01398-TMC-SKV

1 the North Carolina State Bar. I have been a member of the North Carolina State Bar since
2 September 2007.

3 4. I am an attorney with Law Office of Tin Thanh Nguyen, PLLC, which is a located
4 at 6769 Albemarle Road, Suite B, Charlotte, NC 28212. I also have an office in Vietnam.

5 5. I practice immigration law before the Executive Office of Immigration Review
6 (“EOIR”) (the Immigration Court and the Board of Immigration Appeals), United States
7 Citizenship and Immigration Services (“USCIS”) and before the Department of State. (“DOS”).
8 I have represented many respondents, facing removal at different stages of the removal process,
9 including appeals and motions to reopen/reconsider to the Board of Immigration Appeals
10 (“BIA”).

11 6. I am a member of the Federal Bars of the Eastern and Western Districts of North
12 Carolina where I regularly file petitions for Writs of Mandamus. I have represented different
13 Vietnamese nationals in the U.S. District Court for the Northern District of Alabama in
14 Birmingham, AL and in the U.S. Middle District of Georgia in Columbus, GA on petitions for
15 Writ of Habeas Corpus.

16 7. For nearly two decades, I have specialized in immigration and deportation cases
17 involving Vietnamese citizens. I have represented many Vietnamese nationals who are subject to
18 final orders of removal and were released from immigration custody on an Order of Supervision
19 (“OSUP”) because the Government of Vietnam was not issuing travel documents to individuals
20 who entered the United States before 1995. Because of Vietnam’s refusal to issue travel
21 documents, many Vietnamese nationals who came to the United States as refugees before 1995
22 and were ordered removed years ago, have continued to live and work in the United States and
23 have regularly checked in with ICE in accordance with their OSUP conditions.

24 8. I am not aware of any formal change in Vietnam’s repatriation process this year. I
25 am aware that Vietnam has issued many more travel documents for pre-1995 individuals than it
26 ever has in the past. However, that does not mean it is significantly likely that a travel document

DECL. OF T. NGUYEN ISO PRELIMINARY INJUNCTION - 2
Case No. 2:25-cv-01398-TMC-SKV

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Telephone 206.624.0900

1 will be issued in any pre-1995 case. The process is highly dependent on the individualized facts
2 of each case, including whether the individual has any family remaining in Vietnam, whether
3 their Vietnamese identity can be verified, their criminal records, and the manner in which they
4 left Vietnam and came to the United States, among many other factors.

5 9. In May 2025, ICE carried out its a deportation flight to Vietnam and Laos.
6 Ninety-three Vietnamese citizens were deported to Vietnam. I arrived in Vietnam a week after
7 the flight landed and have assisted and spoken with many of these deportees. There were pre-
8 1995 arrivals on this flight. However, I do not how many and I am not aware of any published
9 data on that.

10 10. The work I have done with deportees to Vietnam, as well as those facing
11 deportation in the United States, includes liaising with the Government of Vietnam to facilitate
12 the issuance of travel documents. For this reason, I am familiar with the process and the various
13 challenges inherent in getting Vietnam to issue travel documents for pre-1995 arrivals to the
14 United States.

15 11. I estimate that I have worked on or assisted with hundreds of cases of pre-1995
16 arrival Vietnamese immigrants for whom the U.S. government requested travel documents from
17 Vietnam, during my career. Of those, I estimate travel documents were issued in only a handful
18 of cases.

19 12. This year, I have worked with or assisted on the cases of almost a hundred pre-
20 1995 individuals for whom ICE has requested travel documents from Vietnam. I have yet to see
21 Vietnam issue a travel document within 30 days or less. Rather, in my experience, it can take
22 many months to get any answer from Vietnam about whether it will issue a travel document. On
23 the other hand, I have seen Vietnam issue travel documents within 30 days to individuals who
24 arrived after July 12, 1995. Two of my *pro bono* clients who had entered the United States after
25 1995 both received travel documents around 30 days and were deported to Vietnam in the
26 middle of March 2025.

DECL. OF T. NGUYEN ISO PRELIMINARY INJUNCTION - 3
Case No. 2:25-cv-01398-TMC-SKV

129808723.1 0099820-01214

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1 13. The process for the Government of Vietnam to issue a travel document often
2 takes many months to complete because it involves both the Ministry of Foreign Affairs
3 (“MOFA”) and Ministry of Public Security (“MPS”). Once the MOFA receives an official
4 request for a travel document from ICE, the information is forwarded to the MPS so that the
5 local police can conduct interviews and site-visits with the respondent’s relatives in Vietnam.
6 Only when this process is complete will the MPS give the green light to the MOFA to issue the
7 travel document for repatriation to Vietnam.

8 14. For many Vietnamese nationals, especially the ones who entered the United States
9 prior to 1995, the process to decide whether to issue travel documents takes even longer since
10 many people no longer have any relatives in Vietnam who can verify their identity, or they do
11 not have any documentation from Vietnam at all.

12 15. Since May 30, 2025, I have been monitoring a disturbing trend of ICE re-
13 detaining pre-1995 Vietnamese nationals, usually at their scheduled check in appointments, and
14 detaining them without first requesting or securing their travel documents. These re-detentions
15 are extremely concerning because ICE is detaining people without first establishing that removal
16 is even possible in an individual case.

17 16. Together with other partner organizations, I have collected publicly available
18 information about ICE detainees and through detainee family calls for support. I am tracking
19 daily the detention and movements of individuals identified. When a person is released, we make
20 note of that in our database. As of today, I am tracking around three hundred (300) pre-1995
21 Vietnamese individuals detained in ICE custody. Of those 300, I know that at least 160 have
22 been held in ICE detention centers for more than 30 days. I saw a significant jump in detentions
23 beginning in late June 2025. It is my understanding that there are just as many, if not more, post-
24 1995 Vietnamese arrivals in ICE custody currently.

25 17. I am currently representing a Vietnamese individual with a final order of removal,
26 who had been on OSUP for almost ten (10) years and was detained at his check-in in the

1 beginning of June 2025. After almost two months of detention, his deportation officer is now
2 telling me that he will be removed to Vietnam in the next 4-6 weeks. I asked whether the
3 Government of Vietnam issued a travel document, and the deportation officer responded that
4 ICE had yet to secure one—and, in fact, they had not even requested a travel document to the
5 Vietnamese Embassy. The deportation officer's assertion that he will be deported within that
6 time frame is not substantiated by any documentation, and I have doubts whether he will be
7 removed within 4-6 weeks.

8 18. In recent months, I have observed an increasing pattern of detainees being
9 transferred repeatedly between detention facilities without sufficient justification or notice. Such
10 transfers result in severe disruption of legal representation and impede meaningful access to
11 counsel and due process, particularly where the new facility is geographically remote or lacks
12 video-conferencing capabilities. These transfers also isolate individuals from family members
13 and other support systems, compounding the mental and emotional toll of detention.

14 19. I am very concerned about the risk of third country removals to pre-1995
15 Vietnamese nationals because of the continued challenges of securing travel documents from
16 Vietnam. I am currently representing a pre-1995 Vietnamese national who was deported to
17 Eswatini. I believe that ICE deported him to Eswatini without actually seeking to remove him to
18 Vietnam first. There is no evidence in that case that ICE requested a travel document from the
19 Government of Vietnam prior to his deportation. First, his family members in Viet Nam did not
20 receive any communication from the local police which is usually the final step to verify a
21 Vietnamese national's identity before issuance of a travel document. Second, my client never
22 mentioned anything about ICE obtaining a travel document to his wife who was in frequent
23 communication with him during the period of his immigration custody. Third, it is uncertain
24 whether ICE provided any notice to my client, either in writing or orally, prior to being deported
25 to Eswatini. His wife did not hear from him for over 24 hours and only learned of his
26 deportation to Eswatini when she saw Tricia McLaughlin's, Assistant Secretary for Public Affairs

DECL. OF T. NGUYEN ISO PRELIMINARY INJUNCTION - 5
Case No. 2:25-cv-01398-TMC-SKV

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1 for the Department of Homeland Security (“DHS”), post on X formerly Twitter on July 16, 2025,
2 announcing that ICE had deported five (5) men to Eswatini and included a photo of her husband.
3 He remains incommunicado since his deportation to Eswatini.

4 20. I am also familiar with the case of Tuan Phan, a pre-1995 Vietnamese citizen who
5 ICE deported to South Sudan. I am supporting his wife and legal team with efforts to have the
6 Vietnamese government issue a travel document so that he may be released from imprisonment
7 in South Sudan and go to Vietnam. I am aware that in that case ICE never submitted the request
8 to Vietnam to issue a travel document before it deported him to South Sudan.

9 I declare under penalty of perjury that the foregoing is true and correct to the best of my
10 knowledge.

11 Executed on July 31, 2025 in Charlotte, NC.

12 

13 _____
14 Tin Thanh Nguyen
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DECL. OF T. NGUYEN ISO PRELIMINARY INJUNCTION - 6
Case No. 2:25-cv-01398-TMC-SKV

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Exhibit 12

The HONORABLE TIFFANY M. CARTWRIGHT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

PHONG THANG NGUYEN,

Petitioner,

v.

Bruce SCOTT, Warden, Northwest ICE
Processing Center; Camilla WAMSLEY,
Enforcement and Removal Operations,
Seattle Field Office Director, U.S.
Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT
OF HOMELAND SECURITY;

Respondents.

Case No. 2:25-cv-01398-TMC-SKV

**DECLARATION OF GLENDA M.
ALDANA MADRID IN SUPPORT OF
PETITIONER NGUYEN'S MOTION
FOR A PRELIMINARY INJUNCTION**

NOTED FOR CONSIDERATION:
AUGUST 14, 2025

1 I, Glenda M. Aldana Madrid, hereby declare as follows:

2 1. I am over the age of 18, have personal knowledge of the facts set forth herein,
3 and, if called as a witness, I could and would testify competently as set forth below.

4 2. I am a staff attorney with the Northwest Immigrant Rights Project.

5 3. I am class counsel in *DVD v. DHS*, No. 1:25-cv-10676-BEM (D. Mass.), a class
6 action challenging the federal government's failure to provide individuals with certain final
7 removal orders with meaningful notice and an opportunity to be heard on any fear of persecution,
8 torture, or death prior to deporting them to a third country—that is, a country other than the one
9 designated in their removal order.

10 4. I also represent Mr. Tuan Thanh Phan, a member of the *D.V.D.* class and
11 Vietnamese national who was deported from the United States to South Sudan.

12 5. Mr. Phan came to the United States lawfully from Vietnam in 1991, on an
13 immigrant visa as a next of kin of an Amerasian person.

14 6. I understand that on March 3, 2025, upon completion of his prison sentence in
15 Washington State, he was transferred to Immigration and Customs Enforcement ("ICE")
16 custody. He remained in ICE custody in the United States until May 20, 2025, when ICE put him
17 on a deportation flight headed to South Sudan.

18 7. Based on my conversations with Mr. Phan's wife, Ngoc Phan, I have learned that
19 Ms. Phan was in communication with a deportation officer in charge of her husband's case to
20 facilitate his deportation to Vietnam, the country on his order of removal.

21 8. Mr. Phan sent the deportation officer the contact information for a family member
22 in Vietnam who would be receiving him there.

23

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1 9. Ms. Phan had also coordinated with the deportation officer in order to send a
2 suitcase to Mr. Phan in anticipation of his deportation to Vietnam. Before Ms. Phan was able to
3 send the luggage, however, Mr. Phan was transferred to another detention facility.

4 10. In response, on Monday, May 19, 2025, Ms. Phan contacted the deportation
5 officer to ask whether Vietnam had already issued her husband's travel documents and to
6 coordinate the sending of the luggage to him at the new detention facility. The officer replied
7 that he had not submitted the paperwork for his travel documents yet.

8 11. The next day, May 20, 2025, Mr. Phan was placed on a flight bound for South
9 Sudan.

10 12. Attached hereto as **Exhibit A** is a true and correct copy of the text message
11 exchange between Ms. Phan and Mr. Phan's deportation officer reflecting Ms. Phan's efforts to
12 obtain information about ICE's movements and deportation of Mr. Phan, including his sudden
13 deportation to South Sudan. Mrs. Phan shared these messages with me. I have redacted the
14 officer's name and phone number.

15 13. Mr. Phan was not deported to South Sudan right away. Instead, following a ruling
16 by the district judge in the *D.V.D.* litigation that the government's attempt to deport Mr. Phan
17 and the other men on the flight with him violated a then-existing preliminary injunction, the
18 judge ordered that the government provide Mr. Phan and the other men the process they ought to
19 have received prior to boarding the plane bound for South Sudan: a reasonable fear interview to
20 ascertain their fear of torture if they were sent to the country.

21 14. As the judge gave the government flexibility in choosing where to hold the men
22 while it afforded them this process, the government elected to hold them at a U.S. military base
23 in Djibouti. Mr. Phan and the other men were there from approximately May 21 until around July
24

1 4, 2025, in a shipping container where they were shackled by the feet for 24 hours a day, except
2 to shower once every other day.

3 15. Despite being held in Djibouti for over six weeks, Mr. Phan's reasonable fear
4 interview never took place. The government originally tentatively scheduled the interview for the
5 week of June 16 and then actually scheduled it for June 25.

6 16. On June 23, the Supreme Court issued a stay of the preliminary injunction in the
7 *D.V.D.* litigation; the injunction required the government to provide meaningful notice and an
8 opportunity to be heard as to any fear of torture in the planned third country of removal. On June
9 24, the government filed a request for clarification on the question whether the Court's grant of a
10 stay also stayed the district court judge's remedial order with respect to the men in Djibouti.

11 17. On June 24, the asylum office in charge of Mr. Phan's reasonable fear interview
12 canceled the June 25 interview, alleging it would reschedule it at a future date. The government
13 never rescheduled the interview and Mr. Phan was put on a plane for South Sudan sometime in
14 the evening of July 4th or morning of July 5th after the Supreme Court clarified that its stay
15 extended to the judge's remedial order concerning the men held in Djibouti.

16 18. Since arriving in South Sudan, I am aware that Mr. Phan has been held
17 incommunicado in government custody. The government has not allowed him to call his family
18 or his lawyers, and his future remains uncertain.

19
20 I declare under penalty of perjury under the laws of the United States of America that the
21 foregoing information is true and correct to the best of my knowledge.
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23
24

1 Executed this 31st day of July, 2025, in Seattle, Washington.

2 s/Glenda M. Aldana Madrid
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