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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DELADDO FERNANDO LECKY, ) No.  
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. )

**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 asks this Court to order Respondents not to remove Petitioner 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 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

1 (W.D. Tex. Sept. 12, 2025) (same). *See also M.M. v. Wamsley*, No. CV25-2074-TMC,  
2 2025 WL 3053023, at \*1 (W.D. Wash. Oct. 31, 2025) (same).<sup>1</sup>

3 **RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242**

4 **Personal Information**

- 5 1. (a) Full name: Deladdo Fernando Lecky  
6 (b) Other names used: N/A  
7 2. Place of confinement:  
8 (a) Northwest Immigration Processing Center (NWIPC)  
9 (b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a  
10 contractual arrangement with my custodian, the Immigration and Customs Enforcement  
11 Field Office Director at Seattle, Washington.  
12 (c) Case number or numbers [ICE file number, if known]: My A# has been  
13 provided to the government along with the filing of this petition.  
14 3. I am currently being held on orders by federal authorities: United States  
15 Immigration and Customs Enforcement.  
16 4. I am currently being held on an immigration charge.

17 **Decision or Action You Are Challenging**

- 18 5. What are you challenging in this petition: immigration detention.  
19 6. Provide more information about the decision or action you are challenging:  
20

21 \_\_\_\_\_  
22 <sup>1</sup> For just a few examples of other courts issuing such an order in § 2241 cases  
23 involving ICE detainees within the past few months (or reflecting the court had  
24 previously issued such an order), *see, e.g., Bustos v. Raycraft*, No. 25-13202, 2025 WL  
25 3022294, at \*2 (E.D. Mich. Oct. 29, 2025); *Ferro v. Hyde*, No. CV25-513-SDN, 2025  
26 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).

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

3 (b) Docket number, case number, or opinion number: My A# has been  
4 provided to the government along with the filing of this petition.

5 (c) Decision or action you are challenging: I was taken into custody by ICE  
6 over ten years ago. After approximately nine months, I was granted withholding of  
7 removal to Jamaica on April 21, 2015. I remained in custody for two or three months  
8 after this before I was released on an order of supervision. After I complied with the  
9 order of supervision for ten years, ICE re-detained me on September 17, 2025, and I  
10 have remained in custody ever since.

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

12 7-9. First, second, and third appeals: None

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

14 11. Appeals of immigration proceedings:

15 Does this case concern immigration proceedings? Yes

16 (a) Date you were taken into immigration custody: September 17, 2025

17 (b) Date of the removal or reinstatement order: April 21, 2015

18 (c) Date of the IJ order granting Withholding of Removal: April 21, 2015

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

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

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

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

24 **I. Introduction**

25 Mr. Lecky is presently detained at the Northwest ICE Processing Center  
26 (NWIPC). He has been held in immigration custody this year for three months and was

1 previously held in immigration custody in 2014-2015 for approximately eleven or  
2 twelve months. Removal to the former country of residence, Jamaica, is not reasonably  
3 foreseeable. Mr. Lecky's continued detention is therefore in violation of *Zadvydas v.*  
4 *Davis*, 533 U.S. 678, 689 (2001).

5 Mr. Lecky seeks (a) release; (b) an order preventing re-detention unless the  
6 Respondents establish by clear and convincing evidence at a hearing before a neutral  
7 decisionmaker that Mr. Lecky is a flight risk or a danger to the community, based on  
8 changed circumstances after their most recent release by ICE; (c) an order preventing  
9 removal to a third country without notice and meaningful opportunity to respond in  
10 compliance with the statute and due process in reopened removal proceedings; and (d)  
11 an order barring removal to any third country pursuant to Respondents' punitive  
12 removal policy.

## 13 **II. Jurisdiction and Venue**

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

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

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

25 Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because  
26 Respondents are agencies or officers of agencies of the United States; Respondents

1 Hermosillo and Scott reside in this district; and Mr. Lecky is detained in this district.  
2 Venue is further proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the  
3 events or omissions giving rise to Mr. Lecky’s claims occurred in this district.

4 Because Mr. Lecky is seeking relief related only to his custody status, which is  
5 not inconsistent with an order of removal, exhaustion of administrative remedies, if any,  
6 is not required.

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

8 Mr. Lecky is “in custody” for the purpose of § 2241 because he has been  
9 detained by Respondent ICE since September 17, 2025. He is currently held in Tacoma,  
10 Washington.

11 **IV. Parties**

12 Mr. Lecky is a citizen of Jamaica. He was granted withholding of removal on  
13 April 21, 2015. No appeal was filed so the decision became final on May 21, 2015.  
14 Mr. Lecky is detained in the control and custody of Respondents at NWIPC. As such,  
15 Mr. Lecky is a resident of Tacoma, Washington.

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

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

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

26 Respondent Hermosillo is sued in her official capacity.

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

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

10 **V. Background**

11 Mr. Lecky is a citizen of Jamaica. After spending approximately nine months in  
12 ICE custody, on April 21, 2015, an immigration judge denied his request for asylum,  
13 ordered him removed to Jamaica, but granted his petition for withholding of removal.  
14 *See* INA § section 241(b)(3); Exh. A (Order of Withholding). As such, the judge found  
15 a more likely than not change that he would face persecution or torture based on race,  
16 religion, nationality, political opinion, or membership in a particular social group.

17 Since his release in 2015, Mr. Lecky has diligently complied with the terms of  
18 his order of supervision. He is married and resides with his family in Baltimore.  
19 Mr. Lecky has five young children. Despite a decade of compliance with his order of  
20 supervision, on September 17, 2025, he was given a Notice of Revocation of Release  
21 and re-detained. *See* Exh. B (Notice of Revocation of Release). The notice states that  
22 his order of supervision has been revoked and that “ICE has determined that you can be  
23 expeditiously removed from the United States pursuant to the outstanding order of  
24 removal against you.” But, it is readily apparent there is no plan in place: the notice  
25 states that “[a]t this time, ICE is taking steps to remove you to \_\_\_\_\_.” The second  
26 page reiterates that there is no plan in place, as it states “[t]his letter is to inform you

1 that U.S. Immigration and Customs Enforcement (ICE) intends to remove you to  
2 \_\_\_\_\_[.]”

3 **VI. Particularized Facts Pertaining to Petitioner’s Continued Detention**

4 Mr. Lecky has been granted withholding of removal to Jamaica, and therefore  
5 cannot be removed to that country. Upon information and belief, including the Notice  
6 of Revocation of Release and Removal itself, ICE had not identified another country to  
7 deport Mr. Lecky to or obtained a travel document when it decided to re-detain him in  
8 September 2025.

9 **VII. The Legal Framework Regarding Indefinite Detention Pending Removal**

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

12 Under 8 U.S.C. § 1231, detention of noncitizens who have been ordered  
13 removed is mandatory during the so-called 90-day “removal period.” 8 U.S.C.  
14 § 1231(a)(1)(A). This period begins on the “date the order of removal becomes  
15 administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). But the *Zadvydas* Court believed  
16 that a “serious constitutional threat” under the Fifth Amendment’s Due Process Clause  
17 was posed by the indefinite detention of noncitizens. 533 U.S. at 699. The Court  
18 therefore interpreted 8 U.S.C. 1231(a)(6) to permit only detention related to the  
19 statute’s “basic purpose [of] effectuating [a noncitizen]’s removal[.]” *Id.* at 696–99.

20 The Court further held that the presumptive period during which the detention is  
21 reasonably necessary to effectuate a noncitizen’s removal is six months. After that, the  
22 noncitizen is eligible for conditional release if there is “no significant likelihood of  
23 removal in the reasonably foreseeable future[.]” *Id.* at 701. After the “presumptively  
24 reasonable” period of six months, when the noncitizen can “provide[] good reason to  
25 believe that there is no significant likelihood of removal in the reasonably foreseeable  
26

1 future,” then “the Government must respond with evidence sufficient to rebut that  
2 showing.” *Id.*

3 The issue is not whether Respondents have been able to remove some  
4 individuals to a given country. Rather, the court must make an individualized analysis  
5 as to a particular detainee. *See Nguyen v. Scott*, -- F.Supp.3d --, 2025 WL 2419288, \*17  
6 (W.D. Wash. Aug. 21, 2025) (stating increase in total number of removals to Vietnam,  
7 including those who entered pre-1995, fails to rebut the evidence presented by  
8 Petitioner that “his individual circumstances make removal unlikely.”). Facts that are  
9 part of the analysis include whether Respondent provides evidence that the request was  
10 submitted to Jamaica, whether Jamaica has acknowledged receipt of the request or  
11 otherwise responded to Petitioner’s request, and the anticipated wait time for a response  
12 from Jamaica.

13 When a petitioner has been detained for a total of six months after a final order  
14 of removal, the *Zadvydas* presumptively reasonable period has expired, even if the  
15 petitioner’s current period of detention is less than six months. “A petitioner’s total  
16 length of confinement need not be consecutive to reach the six-month presumptively  
17 reasonable limit established in *Zadvydas*.” *Tang v. Bondi*, No. CV25-1473-RAJ-TLF,  
18 2025 WL 2637750, at \*4 (W.D. Wash. Sept. 11, 2025).

19 **B. The six-month presumptively reasonable period runs from the final**  
20 **removal order, regardless of whether Mr. Lecky was detained during**  
21 **that period.**

22 The six-month presumptively reasonable period runs unabated once Mr. Lecky’s  
23 removal order was final, and does not run solely during any period when he was  
24 detained. In *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462 (W.D. Wash. Nov.  
25 10, 2025), the Hon. James L. Robart held that petitioner’s “*Zadvydas* grace period  
26 ended six months following the entry of the order of his removal[.]” *Id.* at \*3. The court  
reached that conclusion even though the petitioner was not detained until two years

1 later, and Respondents argued that only five months of the *Zadvydas* six-month period  
2 had expired, based on the times when petitioner was detained. *See* Federal  
3 Respondents’ Return Memorandum and Motion to Dismiss, dkt. 13 at 1, 7 (Oct. 27,  
4 2025). *See also, e.g., Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at \*3  
5 (D.N.J. June 13, 2025) (finding that “six-month detention period under *Zadvydas*”  
6 period began upon affirmance of removal order, rejecting argument that petitioner  
7 could not obtain habeas relief because he had not yet been in detention for six months);  
8 *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 500 (S.D.N.Y. 2009) (concluding  
9 that, where government was aware of noncitizen’s address but failed to pursue her  
10 removal until more than 15 months after removal order was entered, “the removal  
11 period, as well as any presumptively reasonable six-month period of removal to which  
12 the Government may have been entitled” had expired six months after the entry of the  
13 removal order); *Bailey v. Lynch*, No. CV 16-2600 (JLL), 2016 WL 5791407, at \*2  
14 (D.N.J. Oct. 3, 2016) (where order of removal became effective upon petitioner’s  
15 release from underlying conviction to ICE authorities, after which he was held only  
16 “briefly” before being released on an order of supervision, the *Zadvydas* presumptively  
17 reasonable period ended “long before he was taken back into custody[.]”).

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

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

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

12 Petitioner’s interest in not being detained is “the most elemental of liberty  
13 interests[.]” *E.A. T.-B. v. Wamsley*, No. CV25-1192-KKE, 2025 WL 2402130, at \*3, \*9  
14 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting petition and ordering  
15 immediate release with no re-detention absent “an immigration court hearing . . . held  
16 (with adequate notice) to determine whether detention is appropriate.”). *See also, e.g.,*  
17 *Ledesma Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, \*8  
18 (W.D. Wash. Oct. 7, 2025) (finding detainee has liberty interest).

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

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

*E.A. T.-B.*, 2025 WL 2402130, at \*3 (quoting *Mathews*, 424 U.S. at 335).

Given that the liberty interest here is “the most elemental,” numerous courts  
have found that this first factor weighs heavily in a petitioner’s favor. *See Ledesma*

1 *Gonzalez*, 2025 WL 2841574, at \*7 (this factor “must be accorded significant weight”).  
2 Petitioner’s status as a noncitizen does not negate that interest. “While the temporary  
3 detention of non-citizens may sometimes be justified by concerns about public safety or  
4 flight risk, the government’s discretion to incarcerate non-citizens is always constrained  
5 by the requirements of due process[.]” *E.A. T.-B.*, 2025 WL 2402130, at \*3 (quoting  
6 *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

7 In fact, as an individual who was released by ICE, a petitioner has a higher  
8 liberty interest than that of the normal ICE detainee. *See Guillermo M.R. v. Kaiser*,  
9 No. CV25-5436-RFL, 2025 WL 1810076, at \*1 (N.D. Cal. June 30, 2025) (by alleging  
10 that he had previously been released by ICE and was about to be re-detained,  
11 “Petitioner has asserted liberty interests that differ from the liberty interests of a  
12 detained person in *Rodriguez Diaz*”) (referencing *Rodriguez Diaz*, 53 F.4th 1189)).<sup>2</sup>  
13 Similarly, in *Carballo v. Andrews*, No. CV25-978-KES-EPG (HC), 2025 WL 2381464,  
14 \*4 (E.D. Cal. Aug. 15, 2025), the court indicated that an individual who has been  
15 released has had—in contrast to a detainee with no period of release—“an opportunity  
16 ‘to form the [ ] enduring attachments of normal life’” (quoting *Morrissey v. Brewer*,  
17 408 U.S. 471, 482 (1972)), and thus has a heightened liberty interest, such as that which  
18 led the Supreme Court in *Morrissey* to impose due process requirements on parolees  
19 where the state seeks to revoke parole.

20 The second factor, risk of an erroneous deprivation of liberty, also weighs in the  
21 petitioner’s favor. A detainee’s release to the community on an OREC reflected ICE’s  
22 determination that Petitioner was neither a flight risk nor a danger to the community.  
23 *See, e.g., Ledesma Gonzalez*, 2025 WL 2841574, at \*8 (when ICE released Petitioner,

24 \_\_\_\_\_  
25 <sup>2</sup> *Rodriguez* held that a person who had been detained pursuant to an individualized  
26 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.

1 “it did so after determining—as required by regulation—that ‘such release would not  
2 pose a danger to property or persons, and that the [noncitizen] is likely to appear for any  
3 future proceeding.’ . . . By issuing the OREC, ICE necessarily found that [Petitioner]  
4 was neither a flight risk nor a danger to the community.” (quoting 8 C.F.R.  
5 § 236.1(c)(8)); *Barrenechea v. Albarran*, No. CV25-7883-VC, 2025 WL 2717279, at  
6 \*1 (N.D. Cal. Sept. 22, 2025) (“ICE’s release of Barrenechea on his own recognizance  
7 in 2020 can only be understood as reflecting a determination that he did not pose a  
8 flight risk or danger to the community”).

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

14 As stated in *E.A. T.-B.*, 2025 WL 2402130, at \*5, “although it would have  
15 required the expenditure of finite resources (money and time) to provide Petitioner  
16 notice and hearing on ATD violations before arresting and re-detaining him, those costs  
17 are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.”

18 The holding that a released detainee was entitled to a pre-deprivation hearing  
19 comes not from *Ledesma Gonzalez* and *E.A. T.-B.* alone; dozens of other courts have  
20 reached this conclusion as well. And while those two cases did not involve petitioners  
21 within final removal orders, many courts have found a liberty interest in not being re-  
22 detained, applied the *Mathews* factors as discussed above, and have granted immediate  
23 release. In this district, Judge Ricardo S. Martinez held, “Based on this review of the  
24 *Mathews* factors, the Court finds that Petitioner has a protected liberty interest in his  
25 continuing release from custody, and that due process requires that Petitioner receive  
26 proper notice and an opportunity to respond before he can be re-detained.” *Jimenez v.*

1 *Bondi*, No. C25-2167RSM, 2025 WL 3466925, at \*2 (W.D. Wash. Dec. 3, 2025)  
2 (granting petition, ordering immediate release, and barring re-detention “without  
3 providing adequate notice of the reasons for his re-detention and a meaningful  
4 opportunity to respond.” *Id.* at \*3). *See also, e.g., Perez v. Mordant*, No. 2:25-CV-  
5 00947-SPC-DNF, 2025 WL 3466956, at \*5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*,  
6 No. 6:25-CV-01425-MTK, 2025 WL 3137296, at \*5 (D. Or. Nov. 10, 2025). *Cf. Lopez*  
7 *Dejesus, v. Bostock*, No. 25-CV-01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash.  
8 Nov. 24, 2025) (applying *Mathews* factors to conclude that petitioner was entitled to  
9 pre-redetention due process, even though his detention was pursuant to the mandatory  
10 detention provisions of 8 U.S.C. § 1226(c)).<sup>3</sup>

11 In any hearing held by the government to justify re-detention, the government  
12 bears the burden of establishing flight risk or danger by clear and convincing evidence.  
13 *See Sanchez-Rivera v. Matuszewski*, No. CV22-1357-MMA-JLB, 2023 WL 139801, at  
14 \*7 n.9 (S.D. Cal. Jan. 9, 2023) (noting that “an overwhelming majority of courts” have  
15 so held). For cases in this district, *see Odimara v. Bostock*, No. CV24-1412-MJP-TLF,  
16 2025 WL 1490395, at \*10 (W.D. Wash. Mar. 27, 2025), *report and recommendation*  
17 *adopted*, No. CV24-1412 MJP, 2025 WL 1489705 (W.D. Wash. May 23, 2025) (citing  
18 cases).

19 In addition, the government should be required to meet its burden based on  
20 changed circumstances subsequent to the petitioner’s previous release by ICE. *See*  
21 *Duong v. Kaiser*, No. CV25-7598-JST, 2025 WL 2689266, at \*10 (N.D. Cal. Sept. 19,  
22 2025) (holding that any re-detention first required a hearing “whether a material change  
23 of circumstances justifies [petitioner’s] re-detention”).

24  
25  
26 <sup>3</sup> The *Lopez Dejesus* opinion does not mention that detention was pursuant to § 1226(c);  
that fact is shown in Respondents’ Return Memorandum, dkt. 16 at 1, 25-CV-01427-  
JHC-TLF (W.D. Wash. Oct. 6, 2025).

1 **IX. The Law Pertaining to a Noncitizen’s Regulatory Right Not to Be Re-detained**  
2 **Absent Notice, an Opportunity to Be Heard, and Findings that the Regulatory**  
3 **Standards for Re-detention Have Been Met.**

4 The revocation of a noncitizen’s release is governed by 8 C.F.R. § 241.13(i),  
5 which authorizes ICE to revoke a noncitizen’s release under § 1231 for purposes of  
6 removal or for violation of conditions of release. The government may revoke a  
7 noncitizen’s release and return them to ICE custody due to failure to comply with any  
8 of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of changed  
9 circumstances, the [Immigration] Service determines that there is a significant  
10 likelihood that the [noncitizen] may be removed in the reasonably foreseeable future,”  
11 *id.* § 241.13(i)(2).

12 Such revocation of release, even if justified by one of the reasons recognized by  
13 regulation, requires notice and an opportunity for the noncitizen to be heard. Upon a  
14 determination by the government (namely ICE) to re-detain a person previously  
15 released following a removal order:

16 the alien will be notified of the reasons for revocation of his or her  
17 release. [ICE] will conduct an initial informal interview promptly after  
18 his or her return to [ICE] custody to afford the alien an opportunity to  
19 respond to the reasons for revocation stated in the notification. The  
20 [noncitizen] may submit any evidence or information that he or she  
21 believes shows there is no significant likelihood he or she be removed  
22 in the reasonably foreseeable future, or that he or she has not violated  
23 the order of supervision. The revocation custody review will include  
24 an evaluation of any contested facts relevant to the revocation and a  
25 determination whether the facts as determined warrant revocation and  
26 further denial of release.

27 *Id.* § 241.13(i)(3).

28 ICE’s decision to re-detain also cannot be arbitrary, but instead is governed by  
29 the factors laid out in 8 C.F.R. § 241.13(f), including:

30 the history of the [noncitizen’s] efforts to comply with the order of  
31 removal, the history of [ICE’s] efforts to remove [noncitizens] to the  
32 country in question or to third countries, including the ongoing nature

1 of [ICE’s] efforts to remove [the noncitizen] and the [noncitizen’s]  
2 assistance with those efforts, the reasonably foreseeable results of  
3 those efforts, and the views of the Department of State regarding the  
prospects for removal of [noncitizens] to the country or countries in  
question.

4 *Id. See also Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at \*3  
5 (E.D. Cal. July 16, 2025). While courts do not make these determinations in the first  
6 instance, they may review them for compliance with the regulation. *See id.*; *Nguyen v.*  
7 *Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025) (citing  
8 *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

9 **X. The Legal Framework for Third-Country Removals**

10 Mr. Lecky respectfully asks for an injunction against a third country removal  
11 unless he is provided the legally required protections.

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

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

24 Second, if the individual is not removed to the country they designated under  
25 § 1231(b)(2)(A), the government shall remove the individual to the country of which  
26 the individual is a “subject, national, or citizen” unless the government of that country

1 does not inform the U.S. government or the individual within 30 days after first inquiry  
2 or within another reasonable period of time whether the government will accept the  
3 individual into the country or the country is not willing to accept the individual into the  
4 country. 8 U.S.C. § 1231(b)(2)(D).

5 Third, if the individual is not removed to either the country of their designation  
6 or the country of which they are a subject, national, or citizen, then the government  
7 shall remove them to any of the following options: (1) the country from which the  
8 individual was admitted to the United States; (2) the country in which is located the  
9 foreign port from which the individual left for the United States or for a foreign  
10 territory contiguous to the United States; (3) the country in which the individual resided  
11 before the individual entered the United States and from which the individual entered  
12 the United States; (4) the country in which the individual was born; or (5) the country in  
13 which the individual's birthplace is located when the individual was ordered removed.

14 8 U.S.C. § 1231(b)(2)(E). *Only* “[i]f impracticable, inadvisable, or impossible” to  
15 remove the individual to any of these countries may the government remove the  
16 individual to “another country whose government will accept [them] into that country.”  
17 8 U.S.C. § 1231(b)(2)(E)(vii).

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

1 Similarly, Congress codified protections enshrined in the Convention Against  
2 Torture (CAT) prohibiting the government from removing a person to a country where  
3 they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998  
4 (“FARRA”), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8  
5 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite,  
6 or otherwise effect the involuntary return of any person to a country in which there are  
7 substantial grounds for believing the person would be in danger of being subjected to  
8 torture, regardless of whether the person is physically present in the United States.”);  
9 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also  
10 mandatory.

11 To comport with the requirements of due process, the government must provide  
12 notice of the third-country removal and an opportunity to respond. Due process requires  
13 “written notice of the country being designated” and “the statutory basis for the  
14 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409  
15 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*  
16 *Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at \*1 (D. Mass. May 21, 2025) (“All  
17 removals to third countries, *i.e.*, removal to a country other than the country or  
18 countries designated during immigration proceedings as the country of removal on the  
19 non-citizen’s order of removal, must be preceded by written notice to both the non-  
20 citizen and the non-citizen’s counsel in a language the non-citizen can understand.”  
21 (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process  
22 requires notice to the noncitizen of the right to apply for asylum and withholding to the  
23 country where they will be removed). The government must be able to show evidence  
24 that the third country will accept the individual into that country. *See Himri v. Ashcroft*,  
25 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-  
26 71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“at the time the government

1 proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must  
2 be able to show that the proposed country *will* accept the [individual]”).

3 Due process also demands that the government “ask the noncitizen whether he or  
4 she fears persecution or harm upon removal to the designated country and memorialize  
5 in writing the noncitizen’s response. This requirement ensures DHS will obtain the  
6 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute  
7 about what the officer and noncitizen said].” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,  
8 2025 WL 1453640, at \*1 (“Following notice, the individual must be given a meaningful  
9 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection  
10 prior to removal.”) (emphasis omitted).

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

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

1 **XI. Facts Pertaining to Punitive Banishment to Third Countries**

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

6 Respondents reportedly have negotiated with at least 58 countries to accept  
7 deportees from other nations. On June 25, 2025, the *New York Times* reported that  
8 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and  
9 Rwanda—had agreed to accept deportees who are not their own citizens.<sup>4</sup> Since then,  
10 ICE has carried out highly publicized third-country deportations to South Sudan and  
11 Eswatini. It also attempted—and completed—an “end-run” around the protections of  
12 the Convention Against Torture by deporting a group of migrants to Ghana, which sent  
13 them on to their countries of citizenship despite fears of persecution.

14 Punishment and deterrence appear to be the point of the Administration’s third-  
15 country removal scheme. The Administration has reportedly negotiated with countries  
16 to have deportees imprisoned in prisons, camps, or other facilities. The government  
17 paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more than 200  
18 deported Venezuelans in a maximum-security prison notorious for gross human rights  
19 abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds of  
20 deportees from countries in Africa and Central Asia and imprisoned them in hotels, a  
21 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men,  
22 including one pre-1995 Vietnamese refugee, to South Sudan. The men have been  
23 detained incommunicado ever since. On July 15, 2025, ICE deported five men to the  
24

25 \_\_\_\_\_  
26 <sup>4</sup> Edward Wong, et al., *Inside the Global Deal-Making Behind Trump’s Mass  
Deportations*, N.Y. Times (June 25, 2025), [https://www.nytimes.com/2025/06/25/us/  
politics/trump-immigrants-deportations.html](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html) [<https://perma.cc/64G9-XYGB>].

1 tiny African nation of Eswatini, including one man from Vietnam, where they are  
2 reportedly being held in solitary confinement.

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

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

21 The memo further instructs that if the noncitizen “does not affirmatively state a  
22 fear of persecution or torture if removed to the country of removal listed on the Notice  
23 of Removal within 24 hours, [ICE] may proceed with removal to the country identified  
24 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the  
25 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration  
26 Services (“USCIS”) for a screening for eligibility for withholding of removal and

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

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

## 11 **XII. The Law Governing Punitive Removal Practices**

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

18 Importantly, the Court distinguished deportation, which the Court reasoned is  
19 “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion of  
20 a citizen from his country by way of punishment,” from government actions aimed at  
21 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236.  
22 The Court explained that deportation “is but a method of enforcing the return to his own  
23 country of [a noncitizen] who has not complied with the conditions upon the  
24 performance of which the government of the nation, acting within its constitutional  
25 authority and through the proper departments, has determined that his continuing to  
26 reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730

1 (1893)). But the Court admonished that the government may not “declare unlawful  
2 residence within the country to be an infamous crime, punishable by deprivation of  
3 liberty and property . . . unless provision were made that the fact of guilt should first be  
4 established by a judicial trial.” *Id.* at 237.

5 Deportation of individuals to third countries to be imprisoned or harmed is  
6 unquestionably punishment.

### 7 **Grounds for Relief**

#### 8 **Ground One: Mr. Lecky’s Continued Detention in Immigration Custody** 9 **Violates the Due Process Clause of the Fifth Amendment to the U.S.** 10 **Constitution Because There Is No Significant Likelihood that Petitioner** 11 **Will Be Removed in the Reasonably Foreseeable Future.**

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

13 Because Mr. Lecky was ordered removed on April 21, 2015, the removal period  
14 has long since expired, and detention is no longer required under 8 U.S.C. § 1231. In  
15 addition, the presumptively reasonable period of six months has passed.

16 There is “good reason to believe that there is no significant likelihood of removal  
17 in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701. Mr. Lecky was  
18 granted withholding of removal on April 21, 2015 and cannot lawfully be removed to  
19 Jamaica.

20 Therefore, the burden shifts to the government to rebut that showing. The  
21 government cannot meet that burden under the facts of this case. *See Nguyen v. Scott*,  
22 No. CV25-1398, 2025 WL 2419288, at \*28–29 (W.D. Wash. Aug. 21, 2025) (granting  
23 preliminary injunction requiring release under *Zadvydas*); *Tang*, 2025 WL 2637750, at  
24 \*6 (same).

#### 25 **Ground Two: Procedural Due Process**

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

1 Mr. Lecky has a liberty interest in not being re-detained. Applying the three-  
2 factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is  
3 also high, because ICE's previous release of him necessarily reflected a conclusion that  
4 he was not a flight risk or a danger to the community. Here, as in *Ledesma Gonzalez*,  
5 "ICE revoked that release without any reassessment of those factors." 2025 WL  
6 2841574, at \*8.

7 Finally, the cost to the government of providing a hearing is low, and  
8 significantly outweighed by the other factors. His re-detention violated his due process  
9 rights and was therefore unlawful.

10 **Ground Three: Failure to Comply with Regulations**

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

12 Respondents have not complied with their obligations under 8 C.F.R. § 241.13  
13 and therefore Petitioner is entitled to release. On information and belief,

14 a) Respondents did not make a determination either that, on account of changed  
15 circumstances, there was a significant likelihood that Mr. Lecky would be removed in  
16 the reasonably foreseeable future or that Mr. Lecky violated the conditions of release;

17 b) to the extent that Respondents made such a determination, they lacked an  
18 adequate basis to do so and did not properly consider the factors specified in the  
19 regulations;

20 c) Respondents did not timely notify Mr. Lecky in writing of the reasons for  
21 revocation in a manner that he could reasonably respond to;

22 d) Respondents did not conduct the required initial informal interview;

23 e) Respondents did not afford Mr. Lecky an opportunity to respond; and

24 f) Respondents did not advise Mr. Lecky of the right to request a review of the  
25 detention and did not comply with the requirements for such review. His re-detention  
26 was therefore contrary to Respondents' regulations and unlawful.

1           **Ground Four: Violation of the Fifth Amendment, 8 U.S.C. § 1231,**  
2           **Convention Against Torture, Implementing Regulations, and the**  
3           **Administrative Procedure Act**

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

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

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

22           **Ground Five: Punitive Third-Country Banishment; Violation of Fifth and**  
23           **Eighth Amendments**

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

25           Under the Fifth Amendment to the U.S. Constitution, no person shall “be held to  
26           answer for a capital, or otherwise infamous crime, unless on a presentment or  
          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 The government has arranged for third countries to receive deportees and  
10 imprison them on arrival, possibly indefinitely, and often in abhorrent conditions. It has  
11 selected countries notorious for human rights abuses and instability for third-country  
12 removal arrangements. It has targeted individuals with criminal convictions for third-  
13 country removals, where they will be imprisoned and harmed, and has publicly  
14 broadcast those removals to demonize and dehumanize the individuals subjected to  
15 these practices and strike fear in the immigrant community to send a message of  
16 retribution and deterrence.

17 Respondents’ third-country removal program is more than a publicity stunt. The  
18 hundreds of individuals who have already been subjected to it have been banished in  
19 foreign prisons upon arrival without charge and often without communication with the  
20 outside world, including their families and lawyers. Respondents may not subject  
21 Mr. Lecky to their third-country removal program which is designed to impose a severe  
22 punishment on their subjects. Such conduct “shocks the conscience” under Fifth  
23 Amendment substantive due process, is cruel and unusual punishment, and may not be  
24 imposed without charge and a judicial trial.

25 Respondents may not seek to remove Mr. Lecky to a third country under their  
26 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at \*29

1 (granting preliminary injunction against “removing Petitioner to any country where he  
2 is likely to face imprisonment upon arrival”).

3 **Prayer for Relief**

4 Petitioner respectfully requests that this Court:

5 (a) Assume jurisdiction over this action;

6 (b) Issue an Order directing Respondents promptly to show cause why this

7 Petition should not be granted;

8 (c) Order Respondents to immediately release Mr. Lecky from custody;

9 (d) Order Respondents to, within 24 hours of his release, provide the Court  
10 with a declaration confirming that Mr. Lecky has been released from custody;

11 (e) Order that Respondents may not re-detain Mr. Lecky without first holding  
12 a hearing before a neutral decisionmaker at which the government bears the burden of  
13 establishing flight risk or danger to the community by clear and convincing evidence  
14 based on changed circumstances since Mr. Lecky was previously released;

15 (f) Order that the government may not otherwise re-detain Mr. Lecky unless  
16 the government:

17 (1) obtains a valid travel document for him,

18 (2) provides the valid travel document to him and his counsel,

19 (3) offers Mr. Lecky the opportunity to leave on his own within two  
20 months, and

21 (4) Petitioner does not leave. Under such circumstances, the government  
22 may be permitted to re-detain Petitioner provided it has already made  
23 concrete arrangements for him to be put on a flight to an approved  
24 country in the reasonably foreseeable future.

25 *See Do v. Scott*, No. C25-2187RSL, 2025 WL 3496909, at \*6 (W.D. Wash. Dec. 5,  
26 2025); *Tang*, 2025 WL 3551381, at \*3.

1 (g) Order that Respondents may not remove or seek to remove Mr. Lecky to a  
2 third country without notice and meaningful opportunity to respond in compliance with  
3 the statute and due process in reopened removal proceedings;

4 (h) Order that Respondents may not remove Mr. Lecky to any third country  
5 because Respondents' third-country removal program seeks to impose unconstitutional  
6 punishment on its subjects, including imprisonment and other forms of harm; and

7 (i) Order all other relief that the Court deems just and proper.

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

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

16 DATED this 19th day of December 2025.

17 Respectfully submitted,

18 s/ *Elizabeth Sher*  
19 Assistant Federal Public Defender  
20 Attorney for Deladdo Lecky