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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALFREDO ACOSTA-GINORI, ) No.  
 )  
Petitioner, )

v. )

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

) 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. )

**RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242**

**Personal Information**

1. (a) Full name: Alfredo Acosta-Ginori
- (b) Other names used: Alfred Acosta-Ginori, Sifredo Acosta-Ginoria
2. Place of confinement:
  - (a) Northwest Immigration Processing Center (“NWIPC”)
  - (b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a contractual arrangement with my custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.
- (c) Case number or numbers: My A# has been provided to the government along with the filing of this petition.

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

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

4 **Decision or Action You Are Challenging**

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

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

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

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

11 (c) Decision or action you are challenging: I was initially ordered removed  
12 on April 4, 2007. I was released from ICE custody on July 11, 2007. I have not been in  
13 ICE custody since that time. I was arrested by ICE at my job site in California on or  
14 about August 16, 2025, and have been at the Northwest Detention Center since August  
15 26, 2025.

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

17 7-9. First, second, and third appeals: None

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

19 11. Appeals of immigration proceedings:

20 Does this case concern immigration proceedings? Yes

21 (a) Date you were taken into immigration custody:

22 (b) Date of the removal or reinstatement order:

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

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

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

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

2 **I. Introduction**

3 Petitioner Alfredo Acosta-Ginori is presently detained at the Northwest ICE  
4 Processing Center (“NWIPC”). Petitioner has been held in immigration custody for  
5 approximately four months. Removal to Cuba, the country Mr. Acosta-Ginori has been  
6 ordered deported to, is not reasonably foreseeable. Mr. Acosta-Ginori’s continued  
7 detention is therefore in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). He  
8 seeks (a) release; (b) an order preventing re-detention unless the government establishes  
9 by clear and convincing evidence at a hearing before a neutral decisionmaker that  
10 Petitioner is a flight risk or a danger to the community, based on changed circumstances  
11 after their most recent release by ICE; (c) an order preventing removal to a third  
12 country without notice and meaningful opportunity to respond in compliance with the  
13 statute and due process in reopened removal proceedings; and (d) an order barring  
14 removal to any third country pursuant to Respondents’ punitive removal policy.

15 Mr. Acosta-Ginori came to the United States from Cuba in the 1980s and  
16 adjusted his status to become a legal permanent resident in 1989. In 1991, he sustained  
17 a conviction in California and served approximately 12 years in state prison. Upon his  
18 release from state prison, in November of 2002, he was detained by ICE. However, he  
19 was released in February of 2003 on an order of supervision, with which he remained  
20 complaint.

21 In 2007, after traveling to Mexico with his daughter, Mr. Acosta-Ginori was  
22 arrested by ICE returning to the United States. At that time, he had been granted a work  
23 permit and had been compliant with his conditions of supervision. After this arrest at  
24 the southern border, he was again detained by ICE and was ordered removed by an  
25 immigration judge on April 4, 2007.

1           Shortly thereafter, on July 11, 2007, he was again released on an order of  
2 supervision. He remained compliant on his state parole, with his registration  
3 requirements and his conditions of supervision from ICE. In 2011, he was again  
4 arrested at the southern border after visiting a sick relative in Mexico. He was charged  
5 and convicted of illegal reentry and given a 30-month sentence. He reported to ICE  
6 upon release from this sentence and was placed on federal supervised release. Finally,  
7 in 2023, Mr. Acosta-Ginori was arrested again at the southern border and charged with  
8 a misdemeanor illegal entry conviction. ICE did not place a detainer on him or pick him  
9 up on his release from federal custody.

10           Mr. Acosta-Ginori's residence is in Carson, California, where he lives with his  
11 family. On or about August 15, 2025, Mr. Acosta-Ginori was arrested by ICE at his  
12 worksite. He was told he was being arrested based upon his 2007 Order of Removal. He  
13 was transferred to the Northwest ICE Processing Center on August 26, 2025, and has  
14 remained detained therein since that date.

15           Mr. Acosta-Ginori has not received further information about the status of his  
16 removal to Cuba, nor has he been given notice that the government made a  
17 determination that he had become a flight risk or a danger to the community.

## 18   **II. Jurisdiction and Venue**

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

22           This Court has subject matter jurisdiction under 28 U.S.C. § 2241, *et seq.*  
23 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346 (United States  
24 as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Respondents have waived  
25 sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.  
26

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

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

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

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

14 Petitioner is “in custody” for the purpose of § 2241 because he has been detained  
15 by Respondent ICE in Tacoma, Washington, since August 26, 2025.

16 **IV. Parties**

17 Mr. Acosta-Ginori is a citizen of Cuba and has a final order of removal to Cuba  
18 as the country designated for removal. Petitioner is detained in the control and custody  
19 of Respondents at NWIPC. As such, Petitioner is a resident of Tacoma, Washington.

20 Respondent Pamela Bondi is the Attorney General of the United States. In this  
21 capacity, Respondent Bondi is the legal custodian of Petitioner. Respondent Bondi is  
22 sued in her official capacity.

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

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

5 Respondent Hermosillo is sued in her official capacity.

6 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day  
7 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant  
8 to a contract with ICE to detain noncitizens. Respondent Scott is sued in his official  
9 capacity as the Warden of a federal detention facility. *See Juarez v. Asher*, No. CV20-  
10 700, 2021 WL 1946222, at \*3–5 (W.D. Wash. May 14, 2021).

11 Respondent United States Immigration and Customs Enforcement (“ICE”) is the  
12 federal executive agency responsible for the enforcement of immigration laws,  
13 including the arrest, detention, and removal of noncitizens. Respondent ICE is a legal  
14 custodian of Petitioner.

## 15 **V. Background**

16 Mr. Acosta-Ginori has lived in the United States since 1980, when he fled Cuba  
17 and sought refuge in this country. In 1989, he was granted lawful status to live and  
18 remain in the United States. However, in 1991, he was convicted of crimes that resulted  
19 in a significant prison sentence and the loss of his legal status. Nonetheless, he was not  
20 ordered deported when he was directly released from prison into INS custody in 2002.  
21 Instead, he was placed on supervision and complied with his reporting requirements  
22 stemming from both his criminal convictions and from immigration.

23 Mr. Acosta-Ginori did not take this second chance for granted. He started a  
24 family and got permission to work. He found consistent and stable work as a truck  
25 driver. With the exception of immigration offenses accrued from going to see family  
26 that previously lived in Mexico, he has not committed any new offenses.

1 When Mr. Acosta-Ginori was arrested by ICE in August of 2025, he was at  
2 work. He has been employed with West Coast Metal Finishing for more than a year.  
3 The company has not filled his role in the hope that he will be able to return to work  
4 with them.

5 Mr. Acosta-Ginori lives with his wife and daughter in Carson, California. He  
6 suffers from significant health issues, which he was being treated for prior to his re-  
7 detention and that he needs to resume treatment for.

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

9 Mr. Acosta-Ginori cannot presently be returned to Cuba because Cuba  
10 historically has been extremely reluctant to accept individuals with criminal records.<sup>1</sup>  
11 While political developments in recent years have increased the number of Cubans  
12 deported, the number of removals effected continues to remain miniscule compared to  
13 the number of outstanding removal orders.<sup>2</sup>

14 The United States government has not shown any increase in successful  
15 deportations to Cuba, despite the increased number of Cuban nationals being detained  
16 and re-detained in the past year. There is no indication that the Cuban government’s  
17

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18 <sup>1</sup> Lizette Alvarez & Kristin Hussey, *Cubans Convicted in the U.S. Face New Fears of*  
19 *Deportation*, N.Y. Times (Jan. 18, 2015) [https://www.nytimes.com/2015/01/19/us/  
20 cubans-convicted-in-the-us-face-new-fears-of-deportation.html](https://www.nytimes.com/2015/01/19/us/cubans-convicted-in-the-us-face-new-fears-of-deportation.html)  
21 [<https://perma.cc/6ANE-23KJ>] (“Other countries also make it difficult for the  
22 United States to deport convicted criminals, but Cuba is one of ‘very few’ that block  
23 most deportation orders, Ms. Gonzalez said. Among the nations listed in 2011 as  
24 ‘recalcitrant,’ as immigration officials call them, are Cambodia, China, India, Iran and  
25 Vietnam, and several in the Caribbean.”).

26 <sup>2</sup> Lindsay Daniels, *The End of Special Treatment for Cubans in the U.S. Immigration*  
*System: Consequences and Solutions for Cubans with Final Orders of Removal*, 122  
DICK. L. R. 2, 707 (2018), [https://insight.dickinsonlaw.psu.edu/dlr/vol122/iss2/8/  
\[https://perma.cc/G8DG-SETL\]](https://insight.dickinsonlaw.psu.edu/dlr/vol122/iss2/8/) (“There are at least 34,000 Cubans with final orders of  
removal in the United States, due in large part to criminal convictions.”).

1 policy of refusing to accept detainees with criminal records has materially changed  
2 even as the United States government has begun re-arresting detainees who were  
3 previously released under orders of supervision.

4 In November of 2025, ICE informed Mr. Acosta-Ginori of its intent to attempt to  
5 deport him to Mexico. He did not consent to deportation to Mexico and, thus, Mexico  
6 will not accept him.<sup>3</sup> Mr. Acosta-Ginori is unaware of any further action that has been  
7 taken by ICE to effect his removal to Cuba.

8 Removal to Cuba is not reasonably foreseeable. ICE has not obtained a travel  
9 document from Cuba for Petitioner, nor has Cuba agreed to accept Mr. Acosta-Ginori.

## 10 **VII. The Legal Framework Regarding Indefinite Detention Pending Removal**

### 11 **A. Detention is unconstitutional when there is not a significant likelihood 12 of removal in the reasonably foreseeable future.**

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

21  
22  
23 <sup>3</sup> See *Rios v. Noem*, 25-cv-2866-JES-VET, Dkt. 13-1 (Nov. 5, 2025), Declaration of  
24 Martin Parsons ¶ 11 (attached as Exhibit 1) (“On October 1, 2025, ICE drove Petitioner  
25 to the Mexican border to effectuate his third country resettlement, but Petitioner refused  
26 to willingly go to Mexico. Petitioner did not express a fear of removal to Mexico. The  
Mexican government was ready to accept Petitioner only if he would willingly go to  
Mexico. ICE cannot, and did not, force Petitioner to depart to Mexico, nor did it  
threaten Petitioner with removal to Africa.”).

1 The Court further held that the presumptive period during which the detention is  
2 reasonably necessary to effectuate a noncitizen’s removal is six months. After that, the  
3 noncitizen is eligible for conditional release if there is “no significant likelihood of  
4 removal in the reasonably foreseeable future[.]” *Id.* at 701. After the “presumptively  
5 reasonable” period of six months, when the noncitizen can “provide[] good reason to  
6 believe that there is no significant likelihood of removal in the reasonably foreseeable  
7 future,” then “the Government must respond with evidence sufficient to rebut that  
8 showing.” *Id.*

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

19 When a petitioner has been detained for a total of six months after a final order  
20 of removal, the *Zadvydas* presumptively reasonable period has expired, even if the  
21 petitioner’s *current* period of detention is less than six months. “A petitioner’s total  
22 length of confinement need not be consecutive to reach the six-month presumptively  
23 reasonable limit established in *Zadvydas*.” *Tang v. Bondi*, No. CV25-1473-RAJ-TLF,  
24 2025 WL 2637750, at \*4 (W.D. Wash. Sept. 11, 2025).

1           **B. The six-month presumptively reasonable period runs from the final**  
2           **removal order, regardless of whether Mr. Acosta-Ginori was**  
3           **detained during that period.**

4           The six-month presumptively reasonable period runs unabated once Mr. Acosta-  
5           Ginori's removal order was final and does not run solely during any period when he is  
6           detained. In *Tran v. Bondi*, No. CV25-01897-JLR, 2025 WL 3140462 (W.D. Wash.  
7           Nov. 10, 2025), the Hon. James L. Robart held that petitioner's "*Zadvydas* grace period  
8           ended six months following the entry of the order of his removal[.]" *Id.* at \*3. The court  
9           reached that conclusion even though the petitioner was not detained until two years  
10          later, and Respondents argued that only five months of the *Zadvydas* six-month period  
11          had expired, based on the times when petitioner was detained. *See* Federal  
12          Respondents' Return Memorandum and Motion to Dismiss, Dkt. 13 at 1, 7 (Oct. 27,  
13          2025). *See also, e.g., Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at \*3  
14          (D.N.J. June 13, 2025) (finding that "six-month detention period under *Zadvydas*"  
15          period began upon affirmance of removal order); *Farez-Espinoza v. Chertoff*, 600 F.  
16          Supp. 2d 488, 500 (S.D.N.Y. 2009) (concluding that, where government was aware of  
17          noncitizen's address but failed to pursue her removal until more than 15 months after  
18          removal order was entered, "the removal period, as well as any presumptively  
19          reasonabl[e] six-month period of removal to which the Government may have been  
20          entitled" had expired six months after the entry of the removal order).

21          A contrary view would run afoul of *Zadvydas*'s reasoning. *Zadvydas* established  
22          the six-month grace period to give ICE a fair chance to effectuate the removal before a  
23          court gets involved. 533 U.S. at 700–01. That was why the court chose to expand the  
24          grace period beyond the 90-day statutory removal period: because Congress likely did  
25          not "believe[] that all reasonably foreseeable removals could be accomplished in that  
26          time." *Id.* at 701. There is no reason that the government could not arrange a  
        Mr. Acosta-Ginori's removal while he remained at liberty.

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

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 An individual’s status as a noncitizen does not negate that interest. *See E.A. T.-B.*, 2025  
3 WL 2402130, at \*3 (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

4 The second factor, risk of an erroneous deprivation of liberty, also weighs  
5 heavily in Mr. Acosta-Ginori’s favor. Mr. Acosta-Ginori’s previous and repeated  
6 release to the community on supervision reflects ICE’s determination that he was  
7 neither a flight risk nor a danger to the community. *See, e.g., Ledesma Gonzalez*, 2025  
8 WL 2841574, at \*8 (noting that ICE releases individuals only after internal review and  
9 satisfaction under regulations that the individual is neither a danger or flight risk);  
10 *Barrenechea v. Albarran*, No. CV25-7883-VC, 2025 WL 2717279, at \*1 (N.D. Cal.  
11 Sept. 22, 2025) (the release of an individual five years before “can only be understood  
12 as reflecting a determination that he did not pose a flight risk or danger to the  
13 community”).

14 The final factor, the government’s interest in detaining a petitioner without  
15 providing a pre-deprivation hearing, also weighs in Mr. Acosta-Ginori’s favor. “[T]he  
16 government’s interest in detaining petitioner without a hearing is low.” *Carballo*, 2025  
17 WL 2381464, \*8 (citation modified). “In immigration court, custody hearings are  
18 routine and impose a minimal cost.” *Id.* (citation modified). As stated in *E.A. T.-B.*,  
19 2025 WL 2402130, at \*5, “although it would have required the expenditure of finite  
20 resources (money and time) to provide Petitioner notice and hearing on ATD violations  
21 before arresting and re-detaining him, those costs are far outweighed by the risk of  
22 erroneous deprivation of the liberty interest at issue.”

23 The fact that Mr. Acosta-Ginori has a final order of removal does not minimize  
24 or change his right to pre-detention due process. *See Jimenez v. Bondi*, No. CV25-2167-  
25 RSM, 2025 WL 3466925, at \*2 (W.D. Wash. Dec. 3, 2025) (granting petition, ordering  
26 immediate release, and barring re-detention “without providing adequate notice of the

1 reasons for his re-detention and a meaningful opportunity to respond.” *Id.* at \*3); *see*  
 2 *also, e.g., Perez v. Mordant*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at \*5  
 3 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*, No. 6:25-CV-01425-MTK, 2025 WL  
 4 3137296, at \*5 (D. Or. Nov. 10, 2025). *Cf. Lopez Dejesus, v. Bostock*, No. CV25-  
 5 01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash. Nov. 24, 2025) (applying *Mathews*  
 6 factors to conclude that petitioner was entitled to pre-redetention due process, even  
 7 though his detention was pursuant to the mandatory detention provisions of 8 U.S.C.  
 8 § 1226(c)).<sup>4</sup>

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

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

20 The revocation of a noncitizen’s release is governed by 8 C.F.R. § 241.13(i),  
 21 which authorizes ICE to revoke a noncitizen’s release under § 1231 for purposes of  
 22 removal or for violation of conditions of release. Even if justified by one of the reasons  
 23 recognized by regulation, notice and an opportunity for the noncitizen to be heard is  
 24

25 \_\_\_\_\_  
 26 <sup>4</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, CV25-01427-  
 JHC-TLF (W.D. Wash. Oct. 6, 2025).

1 still required. Upon a determination by the government (namely ICE) to re-detain a  
2 person previously released following a removal order:

3 the alien will be notified of the reasons for revocation of his or her  
4 release. [ICE] will conduct an initial informal interview promptly after  
5 his or her return to [ICE] custody to afford the alien an opportunity to  
6 respond to the reasons for revocation stated in the notification. The  
7 [noncitizen] may submit any evidence or information that he or she  
8 believes shows there is no significant likelihood he or she be removed  
9 in the reasonably foreseeable future, or that he or she has not violated  
10 the order of supervision. The revocation custody review will include  
11 an evaluation of any contested facts relevant to the revocation and a  
12 determination whether the facts as determined warrant revocation and  
13 further denial of release.

14 *Id.* § 241.13(i)(3).

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

17 the history of the [noncitizen's] efforts to comply with the order of  
18 removal, the history of [ICE's] efforts to remove [noncitizens] to the  
19 country in question or to third countries, including the ongoing nature  
20 of [ICE's] efforts to remove [the noncitizen] and the [noncitizen's]  
21 assistance with those efforts, the reasonably foreseeable results of  
22 those efforts, and the views of the Department of State regarding the  
23 prospects for removal of [noncitizens] to the country or countries in  
24 question.

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

**X. The Law Pertaining to a Noncitizen's Substantive Due Process Right Not to Be Re-detained Without Cause**

“[S]ubstantive due process prevents the government from engaging in conduct that shocks the conscience, or interferes with rights implicit in the concept of ordered

1 liberty.” *United States v. Salerno*, 481 U.S. 739, 746 (1987) (citation modified).  
2 “Freedom from bodily restraint has always been at the core of the liberty protected by  
3 the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504  
4 U.S. 71, 80, (1992); *see also Zadvydas*, 533 U.S. at 696. Even where an individual is  
5 conditionally released from custody, they retain a liberty interest in remaining at liberty.  
6 *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (citing *Morrissey v.*  
7 *Brewer*, 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 150 (1997); *Gagnon*  
8 *v. Scarpelli*, 411 U.S. 778, 782 (1973)).

9 When detention “becomes punitive rather than regulatory,” a violation of due  
10 process has occurred. *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021);  
11 *accord Padilla v. U.S. Immigr. & Customs Enf’t.*, 704 F.Supp.3d 1163, 1172 (W.D.  
12 Wash. 2023) (“Due process protects against immigration detention that is not  
13 reasonably related to the legitimate purpose of effectuating removal or protecting  
14 against danger and flight risk.”). The regulatory purpose of immigration detention is to  
15 hold a person that is a flight risk or a danger to the community. *In re Guerra*, 24 I.&N.  
16 Dec. 37 (B.I.A. 2006), *abrogated on other grounds, Hernandez-Lara v. Lyons*, 10 F.4th  
17 19 (1st Cir. 2021). For people, like Mr. Acosta-Ginori, who have been ordered  
18 deported, 8 C.F.R. § 241.13(i)(2) also authorizes re-detention for purposes of removal,  
19 so long as respondents can prove that “there is a significant likelihood that the  
20 [noncitizen] may be removed in the reasonably foreseeable future.”

21 Thus, if a re-arrest and detention is punitive or exceeds the justifications  
22 permitted by regulation, it violates the individual’s substantive right to due process.

### 23 **XI. The Legal Framework for Third-Country Removals**

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

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

10 Second, if the individual is not removed to the country they designated under  
11 § 1231(b)(2)(A), the government shall remove the individual to the country of which  
12 the individual is a “subject, national, or citizen” unless the government of that country  
13 does not inform the U.S. government or the individual within 30 days after first inquiry  
14 or within another reasonable period of time whether the government will accept the  
15 individual into the country or the country is not willing to accept the individual into the  
16 country. 8 U.S.C. § 1231(b)(2)(D).

17 Third, if the individual is not removed to either the country of their designation  
18 or the country of which they are a subject, national, or citizen, then the government  
19 shall remove them to any of the following options: (1) the country from which the  
20 individual was admitted to the United States; (2) the country in which is located the  
21 foreign port from which the individual left for the United States or for a foreign  
22 territory contiguous to the United States; (3) the country in which the individual resided  
23 before the individual entered the United States and from which the individual entered  
24 the United States; (4) the country in which the individual was born; or (5) the country in  
25 which the individual’s birthplace is located when the individual was ordered removed.  
26 8 U.S.C. § 1231(b)(2)(E). *Only* “[i]f impracticable, inadvisable, or impossible” to

1 remove the individual to any of these countries may the government remove the  
2 individual to “another country whose government will accept [them] into that country.”  
3 8 U.S.C. § 1231(b)(2)(E)(vii).

4 Notwithstanding any of these procedures, the statute prohibits removal to a third  
5 country where a person may be persecuted or tortured. *See* 8 U.S.C. § 1231(b)(3)(A).  
6 The government “may not remove [a noncitizen] to a country if the Attorney General  
7 decides that the [noncitizen’s] life or freedom would be threatened in that country  
8 because of the [noncitizen’s] race, religion, nationality, membership in a particular  
9 social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16.

10 Withholding of removal is a mandatory protection.

11 Similarly, Congress codified protections enshrined in the Convention Against  
12 Torture (“CAT”) prohibiting the government from removing a person to a country  
13 where they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of  
14 1998 (“FARRA”), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8  
15 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite,  
16 or otherwise effect the involuntary return of any person to a country in which there are  
17 substantial grounds for believing the person would be in danger of being subjected to  
18 torture, regardless of whether the person is physically present in the United States.”);  
19 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also  
20 mandatory.

21 To comport with the requirements of due process, the government must provide  
22 notice of the third-country removal and an opportunity to respond. Due process requires  
23 “written notice of the country being designated” and “the statutory basis for the  
24 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409  
25 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*  
26 *Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at \*1 (D. Mass. May 21, 2025);

1 *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to  
2 the noncitizen of the right to apply for asylum and withholding to the country where  
3 they will be removed). And the government must be able to show evidence that the  
4 third country will accept the individual into that country. *See Himri v. Ashcroft*, 378  
5 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-71152,  
6 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“[A]t the time the government proposes a  
7 country of removal pursuant to § 1231(b)(2)(E)(vii), the government must be able to  
8 show that the proposed country *will* accept the [individual].”).

9 Due process also demands that the government inquire whether an individual  
10 fears “persecution or harm” if removed to a designated country and that the individual’s  
11 response be “memorialize[d] in writing.” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,  
12 2025 WL 1453640, at \*1 (“Following notice, the individual must be given a meaningful  
13 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection  
14 prior to removal.”) (emphasis omitted). If an individual claims fear of being removed to  
15 a third country, they must be given the opportunity to reopen the removal proceedings  
16 and seek the same relief that would otherwise apply. *Cf. D.V.D.*, 2025 WL 1453640, at  
17 \*1 (requiring the government to move to reopen the noncitizen’s immigration  
18 proceedings if the individual demonstrates “reasonable fear” and to provide “a  
19 meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek  
20 reopening of their immigration proceedings” if the noncitizen is found to not have  
21 demonstrated “reasonable fear”); *Aden*, 409 F.Supp.3d at 1019 (requiring notice and  
22 time for a respondent to file a motion to reopen and seek relief).

23 Finally, notice of the country to which the noncitizen will be removed cannot be  
24 “last minute” because that would deprive an individual of a meaningful opportunity to  
25 apply for fear-based protection from removal. *Andriasian*, 180 F.3d at 1041.

26

1 **XII. 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>5</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. On July 15, 2025, ICE  
23 deported five men to the tiny African nation of Eswatini, including one man from  
24 Vietnam, where they are reportedly being held in solitary confinement.

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

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 **XIII. 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: Petitioner’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.**

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

12 Because Petitioner’s removal order became final on April 4, 2007, the removal  
13 period has long since expired, and detention is no longer required under 8 U.S.C.  
14 § 1231. In addition, the presumptively reasonable period of six months has passed.  
15 Mr. Acosta-Ginori’s current period of detention has lasted for at least three months and  
16 23 days. However, Mr. Acosta-Ginori has been detained for an aggregate period of  
17 more than six months since his final order was entered in 2007. Each time, he has been  
18 released by immigration because his deportation to Cuba is not reasonably foreseeable.  
19 Nor is it now.

20 There is “good reason to believe that there is no significant likelihood of removal  
21 in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701. As stated above,  
22 Mr. Acosta-Ginori’s criminal history precludes his deportation to Cuba, the number of  
23 successful deportations by the government of Cuban citizens to Cuba is not  
24 substantially increasing, and Mr. Acosta-Ginori has not been given any information that  
25 would indicate that his deportation is likely to occur in the reasonably foreseeable  
26 future.

1 Therefore, the burden shifts to the government to rebut that showing. The  
2 government cannot meet that burden under the facts of this case. *See Nguyen v. Scott*,  
3 No. CV25-1398, 2025 WL 2419288, at \*28–29 (W.D. Wash. Aug. 21, 2025) (granting  
4 preliminary injunction requiring release under *Zadvydas*); *Tang*, 2025 WL 2637750, at  
5 \*6 (same).

6 **Ground Two: Procedural Due Process**

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

8 Petitioner has a liberty interest in not being re-detained. Applying the three-  
9 factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is  
10 also high, because ICE’s previous and repeated release of Mr. Acosta-Ginori  
11 necessarily reflected a conclusion that he was not a flight risk or a danger to the  
12 community. Here, as in *Ledesma Gonzalez*, “ICE revoked that release without any  
13 reassessment of those factors.” 2025 WL 2841574, at \*8.

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

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

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

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

21 (a) Respondents did not make a determination either that, on account of changed  
22 circumstances, there was a significant likelihood that Petitioner would be removed in  
23 the reasonably foreseeable future or that Petitioner violated the conditions of release;

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

1 (c) Respondents did not timely notify Petitioner in writing of the reasons for  
2 revocation in a manner that he could reasonably respond to;

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

4 (e) Respondents did not afford Petitioner an opportunity to respond; and

5 (f) Respondents did not advise Petitioner of the right to request a review of the  
6 detention and did not comply with the requirements for such review. His re-detention  
7 was therefore contrary to Respondents' regulations and unlawful.

8 **Ground Four: Substantive Due Process**

9 Mr. Acosta-Ginori was arrested at his place of employment. The only reason he  
10 was given for his arrest came from an agent stating it was because he'd been ordered  
11 deported in 2007. Since his arrest, he has complied with all requests from ICE to  
12 cooperate in his deportation to Cuba but has not consented to deportation to Mexico.  
13 Respondents' policy against parole in all cases supports the conclusion that Petitioner's  
14 detention is punitive, as do many reported statements advocating for increased arrests  
15 for their own sake. Respondents' refusal to address widespread mistreatment of  
16 detained immigrants also supports that conclusion. *See* Nicole Acevedo, *Hundreds of*  
17 *alleged human rights abuses in immigrant detention, report finds*, NBC News (Aug. 5,  
18 2025), [https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-](https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-report-rcna222499)  
19 [abuses-report-rcna222499](https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-report-rcna222499) [<https://perma.cc/3XLR-6XHX>]; Center for Human Rights,  
20 *Conditions at the Northwest Detention Center*, University of Washington,  
21 [https://jsis.washington.edu/humanrights/projects/immigrant-rights-](https://jsis.washington.edu/humanrights/projects/immigrant-rights-observatory/conditions-at-the-northwest-detention-center/)  
22 [observatory/conditions-at-the-northwest-detention-center/](https://jsis.washington.edu/humanrights/projects/immigrant-rights-observatory/conditions-at-the-northwest-detention-center/) [[https://perma.cc/QF24-](https://perma.cc/QF24-UR6C)  
23 [UR6C](https://perma.cc/QF24-UR6C)] (last visited Dec. 22, 2025).

24 **Ground Five: Violation of the Fifth Amendment, 8 U.S.C. § 1231,**  
25 **Convention Against Torture, Implementing Regulations, and the**  
26 **Administrative Procedure Act**

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

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

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

18 **Ground Six: Punitive Third-Country Banishment; Violation of Fifth and**  
19 **Eighth Amendments**

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

21 Under the Fifth Amendment to the U.S. Constitution, no person shall “be held to  
22 answer for a capital, or otherwise infamous crime, unless on a presentment or  
23 indictment of a Grand Jury”; “be subject for the same offence to be twice put in  
24 jeopardy of life or limb;” or “be deprived of life, liberty, or property, without due  
25 process of law.”  
26

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

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

7 Petitioner has completed all sentences for his criminal convictions. His most  
8 serious conviction dates back to 1991. This conviction made him removable from the  
9 United States, but neither this conviction—nor the immigration-related convictions he  
10 sustained in the decades after—authorize the government to inflict, as a matter of  
11 executive policy and discretion, additional punishment on Petitioner. Respondents’  
12 third-country removal program is punitive in both its nature and its execution.

13 The government has arranged for third countries to receive deportees and  
14 imprison them on arrival, possibly indefinitely, and often in abhorrent conditions. It has  
15 selected countries notorious for human rights abuses and instability for third-country  
16 removal arrangements. It has targeted individuals with criminal convictions for third-  
17 country removals, where they will be imprisoned and harmed, and has publicly  
18 broadcast those removals to demonize and dehumanize the individuals subjected to  
19 these practices and strike fear in the immigrant community to send a message of  
20 retribution and deterrence.

21 Respondents’ third-country removal program is more than a publicity stunt. The  
22 hundreds of individuals who have already been subjected to it have been banished in  
23 foreign prisons upon arrival without charge and often without communication with the  
24 outside world, including their families and lawyers. Respondents may not subject  
25 Petitioner to their third-country removal program which is designed to impose a severe  
26 punishment on their subjects. Such conduct “shocks the conscience” under Fifth

1 Amendment substantive due process, is cruel and unusual punishment, and may not be  
2 imposed without charge and a judicial trial.

3 Respondents may not seek to remove Petitioner to a third country under their  
4 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at \*29  
5 (granting preliminary injunction against “removing Petitioner to any country where he  
6 is likely to face imprisonment upon arrival”).

7 **Prayer for Relief**

8 Petitioner respectfully requests that this Court:

- 9 (a) Assume jurisdiction over this action;
- 10 (b) Issue an Order directing Respondents promptly to show cause why this  
11 Petition should not be granted;
- 12 (c) Order Respondents to immediately release Petitioner from custody;
- 13 (d) Order that Respondents may not re-detain Petitioner without first holding  
14 a hearing before a neutral decisionmaker at which the government bears the burden of  
15 establishing flight risk or danger to the community by clear and convincing evidence  
16 based on changed circumstances since Petitioner was previously released;
- 17 (e) Order that Respondents may not remove or seek to remove Petitioner to a  
18 third country without notice and meaningful opportunity to respond in compliance with  
19 the statute and due process in reopened removal proceedings;
- 20 (f) Order that Respondents may not remove Petitioner to any third country  
21 because Respondents’ third-country removal program seeks to impose unconstitutional  
22 punishment on its subjects, including imprisonment and other forms of harm; and
- 23 (g) Order all other relief that the Court deems just and proper.

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

25 Counsel verifies that this petition is authorized by Petitioner. It does not  
26 personally bear Petitioner’s signature because of the significant difficulty for counsel in

1 meeting with Petitioner in person and because mailing the petition to Petitioner and  
2 having it mailed back would cause delay that would only extend the period of his  
3 unlawful detention. Counsel knows the facts asserted above or alleges them on  
4 information and belief, based on information obtained from the government and/or  
5 Petitioner.

6 DATED this 22nd day of December 2025.

7 Respectfully submitted,

8  
9 *s/ Sara Brin*  
10 Assistant Federal Public Defender  
11 Attorney for Alfredo Acosta-Ginori  
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