

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DANH VAN NGUYEN,

Petitioner,

vs.

PAMELA BONDI, Attorney General of
the United States; KRISTI NOEM,
Secretary, United States Department of
Homeland Security; LAURA
HERMOSILLO, Acting Seattle Field
Office Director, United States
Citizenship and Immigration Services;
BRUCE SCOTT, Warden of Immigration
Detention Facility; and the United States
Immigration and Customs Enforcement,

Respondents.

) No.

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

PRELIMINARY MATTERS

Petitioner Danh Nguyen asks this Court to order Respondents not to remove him from this district while this case is pending, both “[b]ecause transfer of Petitioner to another district could interfere with his access to counsel and ability to participate in the proceedings,” *Tran v. Bondi, et al.*, No. CV25-1897-JLR-BAT, dkt. 6 at 3 (W.D. Wash. Oct. 7, 2025) (*sua sponte* issuing such an order in a § 2241 case involving an ICE detainee), and “under the Court’s inherent power to preserve its ability to hear the case.” *Alves v. U.S. Dep’t of Just.*, No. EP-25-CV-306-KC, 2025 WL 2629763, at *5 (W.D. Tex. Sept. 12, 2025) (same). *See also M.M. v. Wamsley*, No. CV25-2074-TMC, 2025 WL 3053023, at *1 (W.D. Wash. Oct. 31, 2025) (same).¹

¹ For just a few examples of other courts issuing such an order in § 2241 cases involving ICE detainees within the past few months (or reflecting the court had previously issued such an order), *see, e.g., Bustos v. Raycraft*, No. 25-13202, 2025 WL

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Danh Van Nguyen
- (b) Other names used: None
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 Petitioner's custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.
 - (c) Case number or numbers: Petitioner's A# has been provided to the government along with the filing of this petition.
3. Petitioner is currently being held on orders by federal authorities: United States Immigration and Customs Enforcement.
4. Petitioner is currently being held on an immigration charge.

Decision or Action Petitioner Is Challenging

5. What is Petitioner challenging in this petition: immigration detention.
6. Provide more information about the decision or action Petitioner is challenging:
 - (a) Name and location of the agency or court: United States Immigration and Customs Enforcement
 - (b) Docket number, case number, or opinion number: Petitioner's A# has been provided to the government along with the filing of this petition.

3022294, at *2 (E.D. Mich. Oct. 29, 2025); *Ferro v. Hyde*, No. CV25-513-SDN, 2025 WL 3003708, at *1 (D. Me. Oct. 27, 2025) (order issued same day petition was filed); *Lopez Pop v. Noem*, No. CV25-2589-SSS-SSC, 2025 WL 3050095, at *7 (C.D. Cal. Oct. 3, 2025); *Singh v. Delaney Hall*, No. CV25-16018-GC, 2025 WL 2772644, at *1 (D.N.J. Sept. 29, 2025); *Hom v. Ceja*, No. CV25-2221-WJM-TPO, 2025 WL 2801449, at *2 (D. Colo. Sept. 17, 2025).

(c) Decision or action Petitioner is challenging: Petitioner was initially ordered removed in 2008. He was previously detained by ICE and then released on an order of supervision in 2008. He was re-detained by ICE on June 30, 2025. Petitioner has been detained in ICE custody for more than six months following the final removal order.

Earlier Challenges of the Decision or Action

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

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

11. Appeals of immigration proceedings:

Does this case concern immigration proceedings? Yes

(a) Date Petitioner was taken into immigration custody: June 30, 2025

(b) Date of the removal or reinstatement order: March 17, 2008

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

(d) Did Petitioner appeal the decision to the U.S. Court of Appeals? No

12. Other than the appeals listed above, has Petitioner filed any other petition, application, or motion about the issues raised in this petition? No.

Grounds for Petitioner's Challenge in This Petition

I. Introduction

Petitioner Danh Nguyen is presently detained at the Northwest ICE Processing Center (NWIPC). Petitioner has been held in immigration custody since June 30, 2025. Removal to the former country of residence is not reasonably foreseeable. Petitioner's continued detention is therefore in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Petitioner seeks (a) release; (b) an order preventing re-detention unless the government establishes by clear and convincing evidence at a hearing before a neutral decisionmaker that Petitioner is a flight risk or a danger to the community, based on changed circumstances after their most recent release by ICE; (c) an order preventing

1 removal to a third country without notice and meaningful opportunity to respond in
2 compliance with the statute and due process in reopened removal proceedings; and
3 (d) an order barring removal to any third country pursuant to Respondents' punitive
4 removal policy.

5 On information and belief, Petitioner Danh Nguyen was initially detained by
6 ICE for approximately 90 days in 2008 before he was released under an Order of
7 Release and Recognizance (OREC). On June 30, 2025, he was re-detained without any
8 determination he had become a flight risk or a danger to the community.

9 **II. Jurisdiction and Venue**

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

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

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

21 Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because
22 Respondents are agencies or officers of agencies of the United States; Respondents
23 Hermosillo and Scott reside in this district; and Petitioner is detained in this district.
24 Venue is further proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the
25 events or omissions giving rise to Petitioner's claims occurred in this district.
26

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

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

5 Petitioner is “in custody” for the purpose of § 2241 because he has been detained
6 by Respondent ICE in Tacoma, Washington, since June 30, 2025.

7 **IV. Parties**

8 Mr. Nguyen is a citizen of Vietnam. He has a final order of removal to Vietnam
9 as the country designated for removal. Petitioner is detained in the control and custody
10 of Respondents at NWIPC. As such, Petitioner is a resident of Tacoma, Washington.

11 Respondent Pamela Bondi is the Attorney General of the United States. In this
12 capacity, Respondent Bondi is the legal custodian of Petitioner. Respondent Bondi is
13 sued in her official capacity.

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

17 Respondent Laura Hermosillo is the Field Office Director for ICE Enforcement
18 and Removal Operations (“ERO”) in Seattle, Washington. As the ERO Seattle Field
19 Office Director, she is Petitioner’s immediate custodian, responsible for his detention at
20 NWIPC, and is the person with the authority to authorize detention or release.
21 Respondent Hermosillo is sued in her official capacity.

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

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

V. Background

Petitioner Nguyen came to the United States as a refugee in 1995 when he was a teenager. He has no travel documents and suffered a heart attack while in ICE detention, for which he was hospitalized and then returned to custody.

VI. Particularized Facts Pertaining to Petitioner's Continued Detention

Petitioner's removal to Vietnam is not reasonably foreseeable. ICE has not obtained a travel document from Vietnam for Petitioner, nor has Vietnam agreed to accept Petitioner. Historically, Vietnam has accepted very few pre-1995 arrivals for repatriation, and there is no evidence that the practice has changed.

Moreover, the process for the government of Vietnam to issue a travel document, if it is issued at all, often takes many months to complete because it involves both the Ministry of Foreign Affairs ("MOFA") and Ministry of Public Security ("MPS"). Once the MOFA receives an official request for a travel document from ICE, the information is forwarded to the MPS so that the local police can conduct interviews and site-visits with the Petitioner's relatives in Vietnam. Only when this process is complete will the MPS give the green light to the MOFA to issue the travel document for repatriation to Vietnam.

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

Under 8 U.S.C. § 1231, detention of noncitizens who have been ordered removed is mandatory during the so-called 90-day "removal period." 8 U.S.C. § 1231(a)(1)(A). This period begins on the "date the order of removal becomes

1 administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). But the *Zadvydas* Court believed
2 that a “serious constitutional threat” under the Fifth Amendment’s Due Process Clause
3 was posed by the indefinite detention of noncitizens. 533 U.S. at 699. The Court
4 therefore interpreted 8 U.S.C. 1231(a)(6) to permit only detention related to the
5 statute’s “basic purpose [of] effectuating [a noncitizen]’s removal[.]” *Id.* at 696–99.

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

14 The issue is not whether Respondents have been able to remove some
15 individuals to a given country. Rather, the court must make an individualized analysis
16 as to a particular detainee. *See Nguyen v. Scott*, 796 F.Supp.3d 703, 726 (W.D. Wash.
17 Aug. 21, 2025) (stating increase in total number of removals to Vietnam, including
18 those who entered pre-1995, fails to rebut the evidence presented by Petitioner that “his
19 individual circumstances make removal unlikely.”). Facts that are part of the analysis
20 include whether Respondent provides evidence that the request was submitted to
21 Vietnam, whether Vietnam has acknowledged receipt of the request or otherwise
22 responded to Petitioner’s request, and the anticipated wait time for a response from
23 Vietnam.

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

4 The six-month presumptively reasonable period runs unabated once Petitioner's
5 removal order was final, and does not run solely during any period when Petitioner was
6 detained. In *Tran v. Bondi*, No. C25-01897-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, rejecting argument that petitioner
16 could not obtain habeas relief because he had not yet been in detention for six months);
17 *Farez-Espinoza v. Chertoff*, 600 F.Supp.2d 488, 500 (S.D.N.Y. 2009) (concluding that,
18 where government was aware of noncitizen's address but failed to pursue her removal
19 until more than 15 months after removal order was entered, "the removal period, as
20 well as any presumptively reasonable six-month period of removal to which the
21 Government may have been entitled" had expired six months after the entry of the
22 removal order); *Bailey v. Lynch*, No. CV 16-2600 (JLL), 2016 WL 5791407, at *2
23 (D.N.J. Oct. 3, 2016) (where order of removal became effective upon petitioner's
24 release from underlying conviction to ICE authorities, after which he was held only
25 "briefly" before being released on an order of supervision, the *Zadvydas* presumptively
26 reasonable period ended "long before he was taken back into custody[.]").

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

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

12 Procedural due process requires notice and an opportunity to be heard. *Mathews*
 13 *v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural
 14 due process rights, a petitioner must establish (1) a protected property or liberty interest,
 15 and (2) a denial of adequate procedural protections. *ASSE Int'l, Inc. v. Kerry*, 803 F.3d
 16 1059, 1073 (9th Cir. 2015). The Court must also consider “the Government's interest,
 17 including the function involved and the fiscal and administrative burdens that the
 18 additional or substitute procedural requirement would entail.” *Rodriguez Diaz v.*
Garland, 53 F.4th 1189, 1207 (9th Cir. 2022) (quoting *Mathews*, 424 U.S. at 335).

19 Petitioner's interest in not being detained is “the most elemental of liberty
 20 interests[.]” *E.A. T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1321, 1324 (quoting *Hamdi v.*
 21 *Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting petition and ordering immediate release
 22 with no re-detention absent “an immigration court hearing . . . held (with adequate
 23 notice) to determine whether detention is appropriate.”). *See also, e.g., Ledesma*
 24 *Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, *8 (W.D. Wash.
 25 Oct. 7, 2025) (finding detainee has liberty interest).
 26

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

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

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

8 Given that the liberty interest here is “the most elemental,” numerous courts
 9 have found that this first factor weighs heavily in a petitioner's favor. *See Ledesma*
 10 *Gonzalez*, 2025 WL 2841574, at *7 (this factor “must be accorded significant weight”).
 11 Petitioner's status as a noncitizen does not negate that interest. “While the temporary
 12 detention of non-citizens may sometimes be justified by concerns about public safety or
 13 flight risk, the government's discretion to incarcerate non-citizens is always constrained
 14 by the requirements of due process[.]” *E.A. T.-B.*, 795 F.Supp.3d at 1321 (quoting
 15 *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

16 In fact, as an individual who was released by ICE, a petitioner has a higher
 17 liberty interest than that of the normal ICE detainee. *See Guillermo M.R. v. Kaiser*,
 18 No. CV25-5436-RFL, 2025 WL 1810076, at *1 (N.D. Cal. June 30, 2025) (by alleging
 19 that he had previously been released by ICE and was about to be re-detained,
 20 “Petitioner has asserted liberty interests that differ from the liberty interests of a
 21 detained person in *Rodriguez Diaz*”) (referencing *Rodriguez Diaz*, 53 F.4th 1189)).²
 22 Similarly, in *Carballo v. Andrews*, No. CV25-978-KES-EPG (HC), 2025 WL 2381464,
 23 *4 (E.D. Cal. Aug. 15, 2025), the court indicated that an individual who has been

24 _____
 25 ² *Rodriguez* held that a person who had been detained pursuant to an individualized
 26 bond hearing where he was found to be a danger or flight risk was not categorically
 entitled to a second bond hearing and that, under the facts of that case, the detainee
 could not succeed in an as-applied challenge to his detention.

1 released has had—in contrast to a detainee with no period of release—“an opportunity
2 ‘to form the [] enduring attachments of normal life’” (quoting *Morrissey v. Brewer*,
3 408 U.S. 471, 482 (1972)), and thus has a heightened liberty interest, such as that which
4 led the Supreme Court in *Morrissey* to impose due process requirements on parolees
5 where the state seeks to revoke parole.

6 The second factor, risk of an erroneous deprivation of liberty, also weighs in
7 Petitioner’s favor. A detainee’s release to the community on an OREC reflected ICE’s
8 determination that petitioner was neither a flight risk nor a danger to the community.
9 See, e.g., *Ledesma Gonzalez*, 2025 WL 2841574, at *8 (when ICE released petitioner,
10 “it did so after determining—as required by regulation—that ‘such release would not
11 pose a danger to property or persons, and that the [noncitizen] is likely to appear for any
12 future proceeding.’ . . . By issuing the OREC, ICE necessarily found that [petitioner]
13 was neither a flight risk nor a danger to the community.”) (quoting 8 C.F.R.
14 § 236.1(c)(8)); *Barrenechea v. Albarran*, No. CV25-7883-VC, 2025 WL 2717279,
15 at *1 (N.D. Cal. Sept. 22, 2025) (“ICE’s release of Barrenechea on his own
16 recognizance in 2020 can only be understood as reflecting a determination that he did
17 not pose a flight risk or danger to the community”).

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

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

1 The holding that a released detainee was entitled to a pre-deprivation hearing
 2 comes not from *Ledesma Gonzalez* and *E.A. T.-B.* alone; dozens of other courts have
 3 reached this conclusion as well. And while those two cases did not involve petitioners
 4 with final removal orders, many courts have found a liberty interest in not being re-
 5 detained, applied the *Mathews* factors as discussed above, and have granted immediate
 6 release. In this district, the Hon. Ricardo S. Martinez held, “Based on this review of the
 7 *Mathews* factors, the Court finds that Petitioner has a protected liberty interest in his
 8 continuing release from custody, and that due process requires that Petitioner receive
 9 proper notice and an opportunity to respond before he can be re-detained.” *Jimenez v.*
 10 *Bondi*, No. C25-2167RSM, 2025 WL 3466925, at *2 (W.D. Wash. Dec. 3, 2025)
 11 (granting petition, ordering immediate release, and barring re-detention “without
 12 providing adequate notice of the reasons for his re-detention and a meaningful
 13 opportunity to respond.” *Id.* at *3). *See also, e.g., Perez v. Mordant*, No. 2:25-CV-
 14 00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*,
 15 No. 6:25-CV-01425-MTK, 2025 WL 3137296, at *5 (D. Or. Nov. 10, 2025). *Cf. Lopez*
 16 *Dejesus v. Bostock*, No. 25-CV-01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash.
 17 Nov. 24, 2025) (applying *Mathews* factors to conclude that petitioner was entitled to
 18 pre-re-detention due process, even though his detention was pursuant to the mandatory
 19 detention provisions of 8 U.S.C. § 1226(c)).³

20 In any hearing held by the government to justify re-detention, the government
 21 bears the burden of establishing flight risk or danger by clear and convincing evidence.
 22 *See Sanchez-Rivera v. Matuszewski*, No. CV22-1357-MMA-JLB, 2023 WL 139801,
 23 at *7 n.9 (S.D. Cal. Jan. 9, 2023) (noting that “an overwhelming majority of courts”
 24 have so held). For cases in this district, *see Odimara v. Bostock*, No. CV24-1412-MJP-

25 ³ The *Lopez Dejesus* opinion does not mention that detention was pursuant to § 1226(c);
 26 that fact is shown in Respondents’ Return Memorandum, No. 25-CV-01427-JHC-TLF,
 dkt. 16 at 1 (W.D. Wash. Oct. 6, 2025).

1 TLF, 2025 WL 1490395, at *10 (W.D. Wash. Mar. 27, 2025), *report and*
 2 *recommendation adopted*, No. CV24-1412 MJP, 2025 WL 1489705 (W.D. Wash.
 3 May 23, 2025) (citing cases).

4 In addition, the government should be required to meet its burden based on
 5 changed circumstances subsequent to the petitioner's previous release by ICE. *See*
 6 *Duong v. Kaiser*, No. CV25-7598-JST, -- F.Supp.3d --, 2025 WL 2689266, at *10
 7 (N.D. Cal. Sept. 19, 2025) (holding that any re-detention first required a hearing
 8 "whether a material change of circumstances justifies [petitioner's] re-detention").

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

12 The revocation of a noncitizen's release is governed by 8 C.F.R. § 241.13(i),
 13 which authorizes ICE to revoke a noncitizen's release under § 1231 for purposes of
 14 removal or for violation of conditions of release. The government may revoke a
 15 noncitizen's release and return them to ICE custody due to failure to comply with any
 16 of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, "on account of changed
 17 circumstances, the [Immigration] Service determines that there is a significant
 18 likelihood that the [noncitizen] may be removed in the reasonably foreseeable future,"
 19 *id.* § 241.13(i)(2).

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

24 the [noncitizen] will be notified of the reasons for revocation of his or
 25 her release. [ICE] will conduct an initial informal interview promptly
 26 after his or her return to [ICE] custody to afford the [noncitizen] an
 opportunity to respond to the reasons for revocation stated in the
 notification. The [noncitizen] may submit any evidence or information
 that he or she believes shows there is no significant likelihood he or

she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.

Id. § 241.13(i)(3).

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

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

Id. See also *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3 (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*, 788 F.Supp.3d 144, 150 (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 liberty." *United States v. Salerno*, 481 U.S. 739, 746 (1987) (cleaned up). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80, (1992); see also *Zadvydas*, 533 U.S. at 696, (finding that a noncitizen has a liberty interest "strong enough" to challenge "indefinite and potentially permanent" immigration detention). "[I]ndividuals who have been released from custody, even

1 where such release is conditional, have a liberty interest in their continued liberty.” *Doe*
 2 *v. Becerra*, 787 F.Supp.3d 1083, 1093 (E.D. Cal. 2025) (citing *Morrissey v. Brewer*,
 3 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 150 (1997); *Gagnon v.*
 4 *Scarpelli*, 411 U.S. 778, 782 (1973)).

5 “A due process violation occurs when detention becomes punitive rather than
 6 regulatory, meaning there is no regulatory purpose that can rationally be assigned to the
 7 detention or the detention appears excessive in relation to its regulatory purpose.”
 8 *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021); *accord Padilla v. U.S.*
 9 *Immigr. & Customs Enf’t.*, 704 F.Supp.3d 1163, 1172 (W.D. Wash. 2023) (“Due
 10 process protects against immigration detention that is not reasonably related to the
 11 legitimate purpose of effectuating removal or protecting against danger and flight
 12 risk.”). The regulatory purpose of immigration detention is to hold a person that is a
 13 flight risk or a danger to the community. *In re Guerra*, 24 I.&N. Dec. 37 (B.I.A. 2006),
 14 *abrogated on other grounds, Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021).
 15 Regulations governing parole identify only those two factors for consideration in the
 16 release decision. 8 C.F.R. § 236.1(c)(8). For people who have been ordered deported,
 17 8 C.F.R. § 241.13(i)(2) also authorizes re-detention for purposes of removal, so long as
 18 respondents can prove that “there is a significant likelihood that the [noncitizen] may be
 19 removed in the reasonably foreseeable future.”

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

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

23 The immigration laws delineate the proper procedures by which a country may
 24 be designated for removal. *See* 8 U.S.C. § 1231(b). These procedures move in
 25 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 finally, within 30 days after the date the
6 U.S. government first inquires, whether the government will accept the individual into
7 that country; (3) the government of the country is not willing to accept the individual
8 into the country; or (4) the government decides that removing the individual to that
9 country 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, a form of protection known as
6 withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The government “may not
7 remove [a noncitizen] to a country if the Attorney General decides that the
8 [noncitizen’s] life or freedom would be threatened in that country because of the
9 [noncitizen’s] race, religion, nationality, membership in a particular social group, or
10 political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
11 a mandatory protection.

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

22 To comport with the requirements of due process, the government must provide
23 notice of the third-country removal and an opportunity to respond. Due process requires
24 “written notice of the country being designated” and “the statutory basis for the
25 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409
26 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*

1 *Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All
2 removals to third countries, *i.e.*, removal to a country other than the country or
3 countries designated during immigration proceedings as the country of removal on the
4 non-citizen’s order of removal, must be preceded by written notice to both the non-
5 citizen and the non-citizen’s counsel in a language the non-citizen can understand.”
6 (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process
7 requires notice to the noncitizen of the right to apply for asylum and withholding to the
8 country where they will be removed). The government must be able to show evidence
9 that the third country will accept the individual into that country. *See Himri v. Ashcroft*,
10 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-
11 71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“at the time the government
12 proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must
13 be able to show that the proposed country *will* accept the [individual]”).

14 Due process also demands that the government “ask the noncitizen whether he or
15 she fears persecution or harm upon removal to the designated country and memorialize
16 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
17 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
18 about what the officer and noncitizen said].” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,
19 2025 WL 1453640, at *1 (“Following notice, the individual must be given a meaningful
20 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
21 prior to removal.”) (emphasis omitted).

22 If the noncitizen claims fear, measures must be taken to ensure that the
23 noncitizen can seek asylum, withholding, and relief under CAT before an immigration
24 judge in reopened removal proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring
25 the government to move to reopen the noncitizen’s immigration proceedings if the
26 individual demonstrates “reasonable fear” and to provide “a meaningful opportunity,

1 and a minimum of fifteen days, for the non-citizen to seek reopening of their
 2 immigration proceedings” if the noncitizen is found to not have demonstrated
 3 “reasonable fear”); *Aden*, 409 F.Supp.3d at 1019 (requiring notice and time for a
 4 respondent to file a motion to reopen and seek relief).

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

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

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

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

23 Punishment and deterrence appear to be the point of the Administration’s third-
 24 country removal scheme. The Administration has reportedly negotiated with countries

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

1 to have deportees imprisoned in prisons, camps, or other facilities. The government
2 paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more than 200
3 deported Venezuelans in a maximum-security prison notorious for gross human rights
4 abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds of
5 deportees from countries in Africa and Central Asia and imprisoned them in hotels, a
6 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men,
7 including one pre-1995 Vietnamese refugee, to South Sudan. The men have been
8 detained incommunicado ever since. On July 15, 2025, ICE deported five men to the
9 tiny African nation of Eswatini, including one man from Vietnam, where they are
10 reportedly being held in solitary confinement.

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

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

1 after service of the Notice of Removal as long as the [noncitizen] is provided
2 reasonable means and opportunity to speak with an attorney prior to removal.”

3 The memo further instructs that if the noncitizen “does not affirmatively state a
4 fear of persecution or torture if removed to the country of removal listed on the Notice
5 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
6 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the
7 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration
8 Services (“USCIS”) for a screening for eligibility for withholding of removal and
9 protection under the Convention Against Torture. “USCIS will generally screen within
10 24 hours.” If USCIS determines that the noncitizen does not meet the standard, the
11 individual will be removed. If USCIS determines that the noncitizen has met the
12 standard, then the policy directs ICE to either move to reopen removal proceedings “for
13 the sole purpose of determining eligibility for [withholding of removal protection] and
14 CAT” or designate another country for removal.

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

19 **XII. The Law Governing Punitive Removal Practices**

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

Importantly, the Court distinguished deportation, which the Court reasoned is “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion of a citizen from his country by way of punishment,” from government actions aimed at punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236. The Court explained that deportation “is but a method of enforcing the return to his own country of [a noncitizen] who has not complied with the conditions upon the performance of which the government of the nation, acting within its constitutional authority and through the proper departments, has determined that his continuing to reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730 (1893)). But the Court admonished that the government may not “declare unlawful residence within the country to be an infamous crime, punishable by deprivation of liberty and property . . . unless provision were made that the fact of guilt should first be established by a judicial trial.” *Id.* at 237.

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

Grounds for Relief

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

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

Because Petitioner's removal order became final in 2008, the removal period has long since expired, and detention is no longer required under 8 U.S.C. § 1231. In addition, the presumptively reasonable grace period of six months has passed.

There is also “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701.

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*, 796
3 F.Supp.3d 703, 739 (granting preliminary injunction requiring release under *Zadvydas*);
4 *Tang v. Bondi*, No. 25-cv-1473-RAJ-TLF, 2025 WL 2637750, at *6 (W.D. Wash.
5 Sept. 11, 2025) (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 release of him necessarily reflected a conclusion that
11 he was not a flight risk or a danger to the community. Here, as in *Ledesma Gonzalez*,
12 "ICE revoked that release without any reassessment of those factors." 2025 WL
13 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 Respondents' policy against parole in all cases supports the conclusion that
10 Petitioner's detention is punitive, as do many reported statements advocating for
11 increased arrests for their own sake. Respondents' refusal to address widespread
12 mistreatment of detained immigrants also supports that conclusion. *See Nicole*
13 *Acevedo, Hundreds of alleged human rights abuses in immigrant detention, report*
14 *finds*, NBC News (Aug. 5, 2025), [https://www.nbcnews.com/news/us-](https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-report-rcna222499)
15 [news/immigration-detention-human-rights-abuses-report-rcna222499](https://www.nbcnews.com/news/immigration-detention-human-rights-abuses-report-rcna222499)
16 [<https://perma.cc/3XLR-6XHX>]; Center for Human Rights, *Conditions at the Northwest*
17 *Detention Center*, University of Washington,
18 [https://jsis.washington.edu/humanrights/projects/immigrant-rights-](https://jsis.washington.edu/humanrights/projects/immigrant-rights-observatory/conditions-at-the-northwest-detention-center/)
19 [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)
20 [UR6C](https://perma.cc/QF24-UR6C)] (last visited Aug. 28, 2025).

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

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

25 The Fifth Amendment, the INA, the CAT, and implementing regulations
26 mandate meaningful notice and opportunity to respond to any attempt to remove
Petitioner to a third country in reopened removal proceedings. They also require an

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

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

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

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

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

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

25 The U.S. Supreme Court long ago held that the government may not inflict upon
26 individuals an “infamous punishment” in addition to deportation as a penalty for an

1 immigration violation, absent criminal charges, a judicial trial, and attendant
2 constitutional protections. *Wong Wing*, 163 U.S. at 236–38.

3 Petitioner was convicted and has completed any sentences for his criminal
4 convictions. His convictions arguably made him removable from the United States, but
5 the convictions do not authorize the government to inflict, as a matter of executive
6 policy and discretion, additional punishment on Petitioner. Respondents’ third-country
7 removal program is punitive in both its nature and its execution.

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

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

24 Respondents may not seek to remove Petitioner to a third country under their
25 punitive banishment policy and practices. *See Nguyen*, 796 F.Supp.3d 703, 739
26

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

Prayer for Relief

Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this action;

(b) Issue an Order directing Respondents promptly to show cause why this Petition should not be granted;

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

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

(e) Order that the government may not otherwise re-detain Petitioner unless the government:

(1) obtains a valid travel document for him to Vietnam,

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

(3) offers Petitioner the opportunity to leave on his own within two months, and

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

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

1 (f) Order that Respondents may not remove or seek to remove Petitioner 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 (g) Order that Respondents may not remove Petitioner 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 (h) 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 23rd day of December 2025.

17 Respectfully submitted,

18 *s/ Colin Fieman*

19 Attorney for Danh Nguyen
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