

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YOONIS AHMED,

Petitioner,

v.

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. 2:25-cv-02718-JLR

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

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Yoonis Ahmed
- (b) Other names used: Yoonis Hassan Amed
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: 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 You Are Challenging

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

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

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

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

(c) Decision or action you are challenging: Mr. Ahmed initially was ordered removed on May 7, 2013. He had been detained by ICE in 2012 and was released on an order of supervision in 2013. Mr. Ahmed was re-detained on May 28, 2025, and currently has been in ICE custody for more than six months following the final removal order.

Your Earlier Challenges of the Decision or Action

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

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

11. Appeals of immigration proceedings

Does this case concern immigration proceedings? Yes

(a) Dates you were taken into immigration custody: 2012; May 28, 2025

(b) Date of the removal or reinstatement order: May 7, 2013

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

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

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

Grounds for Your Challenge in This Petition

I. Introduction

Petitioner Yoonis Ahmed is presently detained at the Northwest ICE Processing Center (“NWIPC”). Mr. Ahmed has been held in immigration custody for more than six months. Removal to the former country of residence is not reasonably foreseeable. His continued detention is therefore in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Mr. Ahmed 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 he 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 removal to a third country without notice and meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings; and (d) an order barring removal to any third country pursuant to Respondents’ punitive removal policy.

Mr. Ahmed initially was detained in 2012 pending a decision on his application for asylum. Although he was denied asylum and ordered removed on May 7, 2013, he was granted deferral of removal pursuant to the Convention Against Torture (“CAT”) based on the likelihood he would be tortured if returned to Somalia. Following that decision, Mr. Ahmed was released. Prior to his detention in May of this year, Mr. Ahmed had no issues in the community. On May 28, 2025, Mr. Ahmed was re-detained without any determination by the government that he had become a flight risk or a danger to the community.

II. Jurisdiction and Venue

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

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

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

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

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

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

18 Mr. Ahmed is "in custody" for the purpose of § 2241 because he has been
19 detained by Respondent ICE in Tacoma, Washington, since approximately May 28,
20 2025.

21 **IV. Parties**

22 Yoonis Ahmed is a citizen of Somalia. He has a final order of removal and
23 Somalia is the country designated for removal. Mr. Ahmed is detained in the control
24 and custody of Respondents at NWIPC. As such, he is a resident of Tacoma,
25 Washington.

1 Respondent Pamela Bondi is the Attorney General of the United States. In this
2 capacity, Respondent Bondi is the legal custodian of Petitioner. Respondent Bondi is
3 sued in her official capacity.

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

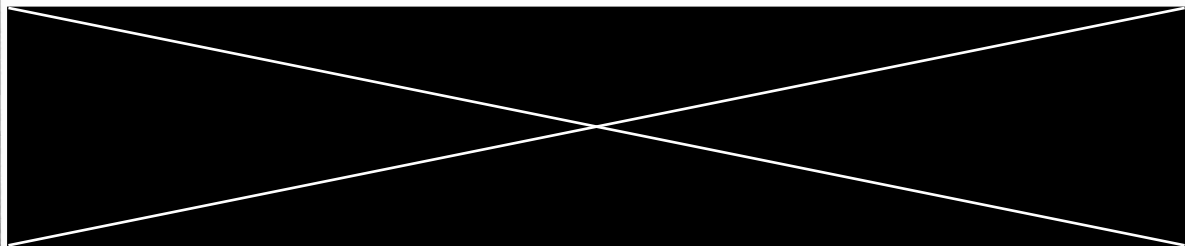
7 Respondent Laura Hermosillo is the Field Office Director for ICE Enforcement
8 and Removal Operations (“ERO”) in Seattle, Washington. As the ERO Seattle Field
9 Office Director, she is Petitioner’s immediate custodian, responsible for his detention at
10 NWIPC, and is the person with the authority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

12 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
13 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant
14 to a contract with ICE to detain noncitizens. Respondent Scott is sued in his official
15 capacity as the Warden of a federal detention facility. *See Juarez v. Asher*, No. CV20-
16 700, 2021 WL 1946222, at *3–5 (W.D. Wash. May 14, 2021).

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

21 **V. Background**

22 Mr. Ahmed and his family are 

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1 [REDACTED] fled to
2 Kenya. After fourteen years of living in refugee camps in Kenya, Mr. Ahmed and his
3 family emigrated to the United States as refugees on October 24, 2006.

4 After coming to the United States, Mr. Ahmed settled first in Salt Lake City,
5 Utah, and then in Portland, Oregon. Until his arrest May 2025, Mr. Ahmed resided in
6 Portland with his mother and sister. Sadly, his mother has since passed away from
7 cancer while Mr. Ahmed has been in detention. Still, he has a strong community of
8 support in Portland.

9 VI. Particularized Facts Pertaining to Petitioner's Continued Detention

10 Given that he was granted deferral of removal under CAT, Mr. Ahmed cannot
11 presently be returned to Somalia, and Mr. Ahmed has no citizenship or ties to any other
12 country. Thus, his removal is not reasonably foreseeable. Rather, Mr. Ahmed was
13 detained without notice or cause as part of Respondent's policy to round up as many
14 noncitizens as possible. *See, e.g.*, Jose Olivares, "Trump administration sets quota to
15 arrest 3,000 people a day in anti-immigration agenda," *The Guardian* (May 29, 2025),
16 <https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota>
17 [<https://perma.cc/6P5L-NUDM>].

18 VII. The Legal Framework Regarding Indefinite Detention Pending Removal

19 A. Detention is unconstitutional when there is not a significant likelihood 20 of removal in the reasonably foreseeable future.

21 Under 8 U.S.C. § 1231, detention of noncitizens who have been ordered
22 removed is mandatory during the so-called 90-day "removal period." 8 U.S.C.
23 § 1231(a)(1)(A). This period begins on the "date the order of removal becomes
24 administratively final." 8 U.S.C. § 1231(a)(1)(B)(i). But the *Zadvydas* Court believed
25 that a "serious constitutional threat" under the Fifth Amendment's Due Process Clause
26 was posed by the indefinite detention of noncitizens. 533 U.S. at 699. The Court

1 therefore interpreted 8 U.S.C. § 1231(a)(6) to permit only detention related to the
 2 statute’s “basic purpose [of] effectuating [a noncitizen]’s removal[.]” *Id.* at 696–99.

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

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

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

22 Petitioner’s interest in not being detained is “the most elemental of liberty
 23 interests[.]” *E.A. T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1321, 1324 (quoting *Hamdi v.*
 24 *Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting petition and ordering immediate release
 25 with no re-detention absent “an immigration court hearing . . . held (with adequate
 26 notice) to determine whether detention is appropriate.”). *See also, e.g., Ledesma*

1 *Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, *8 (W.D. Wash.
2 Oct. 7, 2025) (finding detainee has liberty interest).

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

5 First, the private interest that will be affected by the official action;
6 second, the risk of an erroneous deprivation of such interest through the
7 procedures used, and the probable value, if any, of additional or substitute
8 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.

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

10 Given that the liberty interest here is “the most elemental,” numerous courts
11 have found that this first factor weighs heavily in a petitioner's favor. *See Ledesma*
12 *Gonzalez*, 2025 WL 2841574, at *7 (This factor “must be accorded significant
13 weight.”). Petitioner's status as a noncitizen does not negate that interest. “While the
14 temporary detention of non-citizens may sometimes be justified by concerns about
15 public safety or flight risk, the government's discretion to incarcerate non-citizens is
16 always constrained by the requirements of due process[.]” *E.A. T.-B.*, 795 F.Supp.3d at
17 1321 (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

18 Similarly, in *Carballo v. Andrews*, No. CV25-978-KES-EPG (HC), 2025 WL
19 2381464, *4 (E.D. Cal. Aug. 15, 2025), the court indicated that an individual who has
20 been released has had—in contrast to a detainee with no period of release—“an
21 opportunity ‘to form the [] enduring attachments of normal life’” (quoting *Morrissey v.*
22 *Brewer*, 408 U.S. 471, 482 (1972)), and thus has a heightened liberty interest, such as
23 that which led the Supreme Court in *Morrissey* to impose due process requirements on
24 parolees where the state seeks to revoke parole.

25 The second factor, risk of an erroneous deprivation of liberty, also weighs in
26 Petitioner's favor. A detainee's release to the community on an OREC reflected ICE's

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

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

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

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

1 continuing release from custody, and that due process requires that Petitioner receive
 2 proper notice and an opportunity to respond before he can be re-detained.” *Jimenez v.*
 3 *Bondi*, No. CV25-2167RSM, 2025 WL 3466925, at *2 (W.D. Wash. Dec. 3, 2025)
 4 (granting petition, ordering immediate release, and barring re-detention “without
 5 providing adequate notice of the reasons for his re-detention and a meaningful
 6 opportunity to respond.” *Id.* at *3). *See also, e.g., Perez v. Mordant*, No. 2:25-CV-
 7 00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*,
 8 No. 6:25-CV-01425-MTK, 2025 WL 3137296, at *5 (D. Or. Nov. 10, 2025). *Cf. Lopez*
 9 *Dejesus, v. Bostock*, No. 25-CV-01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash.
 10 Nov. 24, 2025) (applying *Mathews* factors to conclude that petitioner was entitled to
 11 pre-re-detention due process, even though his detention was pursuant to the mandatory
 12 detention provisions of 8 U.S.C. § 1226(c)).¹

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

21 In addition, the government should be required to meet its burden based on
 22 changed circumstances subsequent to the petitioner’s previous release by ICE. *See*
 23 *Duong v. Kaiser*, No. CV25-7598-JST, -- F.Supp.3d --, 2025 WL 2689266, at *10
 24

25 ¹ The *Lopez Dejesus* opinion does not mention that detention was pursuant to § 1226(c);
 26 that fact is shown in Respondents’ Return Memorandum, No. CV25-01427-JHC-TLF,
 Dkt. 16 at 1 (W.D. Wash. Oct. 6, 2025).

(N.D. Cal. Sept. 19, 2025) (holding that any re-detention first required a hearing “whether a material change of circumstances justifies [petitioner’s] re-detention”).

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

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

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

the [noncitizen] will be notified of the reasons for revocation of his or her release. [ICE] will conduct an initial informal interview promptly 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:

1 the history of the [noncitizen's] efforts to comply with the order of
 2 removal, the history of [ICE's] efforts to remove [noncitizens] to the
 3 country in question or to third countries, including the ongoing nature
 4 of [ICE's] efforts to remove [the noncitizen] and the [noncitizen's]
 5 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.

6 *Id. See also Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3
 7 (E.D. Cal. July 16, 2025). While courts do not make these determinations in the first
 8 instance, they may review them for compliance with the regulation. *See id.*; *Nguyen v.*
 9 *Hyde*, 788 F.Supp.3d 144, 150 (D. Mass. June 20, 2025) (citing *Kong v. United States*,
 10 62 F.4th 608, 620 (1st Cir. 2023)).

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

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

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

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

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

5 Third, if the individual is not removed to either the country of their designation
6 or the country of which they are a subject, national, or citizen, then the government
7 shall remove them to any of the following options: (1) the country from which the
8 individual was admitted to the United States; (2) the country in which the foreign port
9 from which the individual left for the United States is located or for a foreign territory
10 contiguous to the United States; (3) the country in which the individual resided before
11 the individual entered the United States and from which the individual entered the
12 United States; (4) the country in which the individual was born; or (5) the country in
13 which the individual's birthplace is located when the individual was ordered removed.
14 8 U.S.C. § 1231(b)(2)(E). *Only* "[i]f impracticable, inadvisable, or impossible" to
15 remove the individual to any of these countries may the government remove the
16 individual to "another country whose government will accept [them] into that country."
17 8 U.S.C. § 1231(b)(2)(E)(vii).

18 Notwithstanding any of these procedures, the statute prohibits removal to a third
19 country where a person may be persecuted or tortured, a form of protection known as
20 withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The government "may not
21 remove [a noncitizen] to a country if the Attorney General decides that the
22 [noncitizen's] life or freedom would be threatened in that country because of the
23 [noncitizen's] race, religion, nationality, membership in a particular social group, or
24 political opinion." *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
25 a mandatory protection.
26

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

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

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

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

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

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

XI. Facts Pertaining to Punitive Banishment to Third Countries

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

Respondents reportedly have negotiated with at least 58 countries to accept deportees from other nations. On June 25, 2025, the *New York Times* reported that seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees who are not their own citizens.² Since then, ICE has carried out highly publicized third-country deportations to South Sudan and Eswatini. It also attempted—and completed—an “end-run” around the protections of the Convention Against Torture by deporting a group of migrants to Ghana, which sent them on to their countries of citizenship despite fears of persecution.

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

² 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://perma.cc/64G9-XYGB>].

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

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

9 On July 9, 2025, ICE issued a new memo stating that, when seeking to remove
10 an individual to a country not designated on the removal order, ICE may deport that
11 person without any procedures for notice or an opportunity to be heard if the State
12 Department confirms it has received diplomatic assurances that individuals will not be
13 persecuted or tortured. Ex. 1. If no diplomatic assurances are received, the ICE memo
14 instructs officers to serve on the individual a Notice of Removal that includes the
15 intended country of removal. It instructs officers not to ask whether the individual is
16 afraid of removal to that country. It states that officers should “generally wait at least 24
17 hours following service of the Notice of Removal before effectuating removal” but that
18 “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more hours
19 after service of the Notice of Removal as long as the [noncitizen] is provided
20 reasonable means and opportunity to speak with an attorney prior to removal.”

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

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

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

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

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

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

(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.

Mr. Ahmed was ordered removed on May 7, 2013, and thus the removal period has long since expired, and detention is no longer required under 8 U.S.C. § 1231. In addition, the presumptively reasonable period of six months has passed.

Moreover, because Mr. Ahmed was ordered removed subject to deferral of removal under CAT, “there is no significant likelihood of removal in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701.

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

Ground Two: Procedural Due Process

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

Mr. Ahmed has a liberty interest in not being re-detained. Applying the three-factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is

1 also high, because ICE's previous release of him necessarily reflected a conclusion that
2 he was not a flight risk or a danger to the community. Here, as in *Ledesma Gonzalez*,
3 "ICE revoked that release without any reassessment of those factors." 2025 WL
4 2841574, at *8.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 Mr. Ahmed was convicted and completed any sentences for his criminal
10 convictions more than a decade ago. Mr. Ahmed’s convictions made him removable
11 from the United States, but the convictions do not authorize the government to inflict,
12 as a matter of executive policy and discretion, additional punishment on him.
13 Respondents’ third-country removal program is punitive in both its nature and its
14 execution.

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

23 Respondents’ third-country removal program is more than a publicity stunt. The
24 hundreds of individuals who have already been subjected to it have been banished in
25 foreign prisons upon arrival without charge and often without communication with the
26 outside world, including their families and lawyers. Respondents may not subject

1 Mr. Ahmed to their third-country removal program which is designed to impose a
2 severe punishment on their subjects. Such conduct “shocks the conscience” under Fifth
3 Amendment substantive due process, is cruel and unusual punishment, and may not be
4 imposed without charge and a judicial trial.

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

9 **Prayer for Relief**

10 Petitioner respectfully requests that this Court:

11 (a) Assume jurisdiction over this action;

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

14 (c) Order Respondents to immediately release Mr. Ahmed from custody;

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

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

22 (f) Order that Respondents may not remove Mr. Ahmed to any third country
23 because Respondents’ third-country removal program seeks to impose unconstitutional
24 punishment on its subjects, including imprisonment and other forms of harm; and

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

Verification Pursuant to LCR 100(e)

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

DATED this 29th day of December 2025.

Respectfully submitted,

s/ Nancy Tenney
Assistant Federal Public Defender
Attorney for Yoonis Ahmed