

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PHUC HUU 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 Phuc Huu 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) Phuc Huu 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: On information and belief, Petitioner was initially ordered removed in 2011 and he was previously detained by ICE for approximately six months before being released on an order of supervision. He was re-detained by ICE on December 11, 2025. Accordingly, Petitioner has been 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: December 11, 2025

(b) Date of the removal or reinstatement order: 2011

(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 Phuc Nguyen is presently detained at the Northwest ICE Processing Center (NWIPC). Petitioner has been held in immigration custody since December 11, 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

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

5 On information and belief, Petitioner Phuc Nguyen was initially detained by ICE
6 for approximately six months in 2011 before he was released under an Order of Release
7 and Recognizance (OREC). On December 11, 2025, he was re-detained without notice
8 or any 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 December 11, 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

Mr. Nguyen came to the United States as a refugee in 1999, when he was 15 years old. [REDACTED] his family was forced to flee to the United States when that conflict ended. Mr. Nguyen has no family in Vietnam or other ties to the country. However, he has two children, 10 and 13 years old, who are living with their grandmother in Salem, Oregon, while he is detained. He does not have a birth certificate, passport, or other travel documents.

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

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

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

1 responded to Petitioner's request, and the anticipated wait time for a response from
2 Vietnam.

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

6 Mr. Nguyen has spent more than six months in ICE detention. Moreover, the six-
7 month presumptively reasonable period runs unabated once Petitioner's removal order
8 was final, and does not run solely during any period when Petitioner was detained. In
9 *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462 (W.D. Wash. Nov. 10, 2025),
10 the Hon. James L. Robart held that petitioner's "*Zadvydas* grace period ended six
11 months following the entry of the order of his removal[.]" *Id.* at *3. The court reached
12 that conclusion even though the petitioner was not detained until two years later, and
13 Respondents argued that only five months of the *Zadvydas* six-month period had
14 expired, based on the times when petitioner was detained. *See* Federal Respondents'
15 Return Memorandum and Motion to Dismiss, dkt. 13 at 1, 7 (Oct. 27, 2025); *see also*,
16 *e.g.*, *Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at *3 (D.N.J. June 13, 2025)
17 (finding that "six-month detention period under *Zadvydas*" period began upon
18 affirmance of removal order, rejecting argument that petitioner could not obtain habeas
19 relief because he had not yet been in detention for six months); *Farez-Espinoza v.*
20 *Chertoff*, 600 F.Supp.2d 488, 500 (S.D.N.Y. 2009) (concluding that, where government
21 was aware of noncitizen's address but failed to pursue her removal until more than 15
22 months after removal order was entered, "the removal period, as well as any
23 presumptively reasonabl[e] six-month period of removal to which the Government may
24 have been entitled" had expired six months after the entry of the removal order); *Bailey*
25 *v. Lynch*, No. CV 16-2600 (JLL), 2016 WL 5791407, at *2 (D.N.J. Oct. 3, 2016)
26 (where order of removal became effective upon petitioner's release from underlying
conviction to ICE authorities, after which he was held only "briefly" before being

1 released on an order of supervision, the *Zadvydas* presumptively reasonable period
2 ended “long before he was taken back into custody[.]”).

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

11 **VII. 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 weight”).
13 Petitioner's status as a noncitizen does not negate that interest. “While the temporary
14 detention of non-citizens may sometimes be justified by concerns about public safety or
15 flight risk, the government's discretion to incarcerate non-citizens is always constrained
16 by the requirements of due process[.]” *E.A. T.-B.*, 795 F.Supp.3d at 1321 (quoting
17 *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

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

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 Similarly, in *Carballo v. Andrews*, No. CV25-978-KES-EPG (HC), 2025 WL 2381464,
 2 *4 (E.D. Cal. Aug. 15, 2025), the court indicated that an individual who has been
 3 released has had—in contrast to a detainee with no period of release—“an opportunity
 4 ‘to form the [] enduring attachments of normal life’” (quoting *Morrissey v. Brewer*,
 5 408 U.S. 471, 482 (1972)), and thus has a heightened liberty interest, such as that which
 6 led the Supreme Court in *Morrissey* to impose due process requirements on parolees
 7 where the state seeks to revoke parole.

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

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

25 As stated in *E.A. T.-B.*, 795 F.Supp.3d at 1324, “although it would have required
 26 the expenditure of finite resources (money and time) to provide Petitioner notice and

1 hearing on ATD violations before arresting and re-detaining him, those costs are far
 2 outweighed by the risk of erroneous deprivation of the liberty interest at issue.”

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

22 In any hearing held by the government to justify re-detention, the government
 23 bears the burden of establishing flight risk or danger by clear and convincing evidence.
 24 *See Sanchez-Rivera v. Matuszewski*, No. CV22-1357-MMA-JLB, 2023 WL 139801,

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).

at *7 n.9 (S.D. Cal. Jan. 9, 2023) (noting that “an overwhelming majority of courts” have so held). For cases in this district, *see Odimara v. Bostock*, No. CV24-1412-MJP-TLF, 2025 WL 1490395, at *10 (W.D. Wash. Mar. 27, 2025), *report and recommendation adopted*, No. CV24-1412 MJP, 2025 WL 1489705 (W.D. Wash. May 23, 2025) (citing cases).

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

VIII. 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

1 opportunity to respond to the reasons for revocation stated in the
 2 notification. The [noncitizen] may submit any evidence or information
 3 that he or she believes shows there is no significant likelihood he or
 4 she be removed in the reasonably foreseeable future, or that he or she
 5 has not violated the order of supervision. The revocation custody
 6 review will include an evaluation of any contested facts relevant to the
 7 revocation and a determination whether the facts as determined
 8 warrant revocation and further denial of release.

9 *Id.* § 241.13(i)(3).

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

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

20 *Id.* See also *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3
 21 (E.D. Cal. July 16, 2025). While courts do not make these determinations in the first
 22 instance, they may review them for compliance with the regulation. See *id.*; *Nguyen v.*
 23 *Hyde*, 788 F.Supp.3d 144, 150 (D. Mass. June 20, 2025) (citing *Kong v. United States*,
 24 62 F.4th 608, 620 (1st Cir. 2023)).

25 **IX. The Law Pertaining to a Noncitizen's Substantive Due Process Right Not to Be**
 26 **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

1 interest “strong enough” to challenge “indefinite and potentially permanent”
2 immigration detention). “[I]ndividuals who have been released from custody, even
3 where such release is conditional, have a liberty interest in their continued liberty.” *Doe*
4 *v. Becerra*, 787 F.Supp.3d 1083, 1093 (E.D. Cal. 2025) (citing *Morrissey v. Brewer*,
5 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 150 (1997); *Gagnon v.*
6 *Scarpelli*, 411 U.S. 778, 782 (1973)).

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

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

X. The Legal Framework for Third-Country Removals

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

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

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

Third, if the individual is not removed to either the country of their designation or the country of which they are a subject, national, or citizen, then the government shall remove them to any of the following options: (1) the country from which the individual was admitted to the United States; (2) the country in which is located the foreign port from which the individual left for the United States or for a foreign territory contiguous to the United States; (3) the country in which the individual resided

1 before the individual entered the United States and from which the individual entered
2 the United States; (4) the country in which the individual was born; or (5) the country in
3 which the individual's birthplace is located when the individual was ordered removed.
4 8 U.S.C. § 1231(b)(2)(E). *Only* "[i]f impracticable, inadvisable, or impossible" to
5 remove the individual to any of these countries may the government remove the
6 individual to "another country whose government will accept [them] into that country."
7 8 U.S.C. § 1231(b)(2)(E)(vii).

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

16 Similarly, Congress codified protections enshrined in the Convention Against
17 Torture (CAT) prohibiting the government from removing a person to a country where
18 they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998
19 ("FARRA"), Public Law 105-277, div. G, sec. 2242, 112 Stat. 2681, 2631-822 (8
20 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel, extradite,
21 or otherwise effect the involuntary return of any person to a country in which there are
22 substantial grounds for believing the person would be in danger of being subjected to
23 torture, regardless of whether the person is physically present in the United States.");
24 28 C.F.R. §§ 200.1, 208.16-208.18, 1208.16-1208.18. CAT protection is also
25 mandatory.

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

19 Due process also demands that the government “ask the noncitizen whether he or
20 she fears persecution or harm upon removal to the designated country and memorialize
21 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
22 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
23 about what the officer and noncitizen said].” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,
24 2025 WL 1453640, at *1 (“Following notice, the individual must be given a meaningful
25 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
26 prior to removal.”) (emphasis omitted).

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

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

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

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

20 Respondents reportedly have negotiated with at least 58 countries to accept
 21 deportees from other nations. On June 25, 2025, the *New York Times* reported that
 22 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
 23 Rwanda—had agreed to accept deportees who are not their own citizens.⁴ Since then,
 24 ICE has carried out highly publicized third-country deportations to South Sudan and

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

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

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

22 On July 9, 2025, ICE issued a new memo stating that, when seeking to remove
23 an individual to a country not designated on the removal order, ICE may deport that
24 person without any procedures for notice or an opportunity to be heard if the State
25 Department confirms it has received diplomatic assurances that individuals will not be
26 persecuted or tortured. If no diplomatic assurances are received, the ICE memo

1 instructs officers to serve on the individual a Notice of Removal that includes the
2 intended country of removal. It instructs officers not to ask whether the individual is
3 afraid of removal to that country. It states that officers should “generally wait at least 24
4 hours following service of the Notice of Removal before effectuating removal” but that
5 “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more hours
6 after service of the Notice of Removal as long as the [noncitizen] is provided
7 reasonable means and opportunity to speak with an attorney prior to removal.”

8 The memo further instructs that if the noncitizen “does not affirmatively state a
9 fear of persecution or torture if removed to the country of removal listed on the Notice
10 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
11 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the
12 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration
13 Services (“USCIS”) for a screening for eligibility for withholding of removal and
14 protection under the Convention Against Torture. “USCIS will generally screen within
15 24 hours.” If USCIS determines that the noncitizen does not meet the standard, the
16 individual will be removed. If USCIS determines that the noncitizen has met the
17 standard, then the policy directs ICE to either move to reopen removal proceedings “for
18 the sole purpose of determining eligibility for [withholding of removal protection] and
19 CAT” or designate another country for removal.

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

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

25 It is bedrock law that the U.S. government may not impose or inflict an infamous
26 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court

1 ruled that while deportation itself was not a punishment, the government could not
2 attach punitive conditions to deportation—in that case, imprisonment at hard labor—
3 absent a criminal charge, trial in a court of law, and the protections of the Fifth, Sixth,
4 and Eighth Amendments. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

5 Importantly, the Court distinguished deportation, which the Court reasoned is
6 “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion of
7 a citizen from his country by way of punishment,” from government actions aimed at
8 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236.
9 The Court explained that deportation “is but a method of enforcing the return to his own
10 country of [a noncitizen] who has not complied with the conditions upon the
11 performance of which the government of the nation, acting within its constitutional
12 authority and through the proper departments, has determined that his continuing to
13 reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730
14 (1893)). But the Court admonished that the government may not “declare unlawful
15 residence within the country to be an infamous crime, punishable by deprivation of
16 liberty and property . . . unless provision were made that the fact of guilt should first be
17 established by a judicial trial.” *Id.* at 237.

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

20 Grounds for Relief

21 **Ground One: Petitioner’s Continued Detention in Immigration Custody** 22 **Violates the Due Process Clause of the Fifth Amendment to the U.S.** 23 **Constitution Because There Is No Significant Likelihood that Petitioner** 24 **Will Be Removed in the Reasonably Foreseeable Future.**

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

25 Because Petitioner’s removal order became final in or about 2011, the removal
26 period has long since expired, and detention is no longer required under 8 U.S.C.

1 § 1231. In addition, the presumptively reasonable grace period of six months has
2 passed.

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

5 Therefore, the burden shifts to the government to rebut that showing. The
6 government cannot meet that burden under the facts of this case. *See Nguyen*, 796
7 F.Supp.3d 703, 739 (granting preliminary injunction requiring release under *Zadvydas*);
8 *Tang v. Bondi*, No. 25-cv-1473-RAJ-TLF, 2025 WL 2637750, at *6 (W.D. Wash.
9 Sept. 11, 2025) (same).

10 **Ground Two: Procedural Due Process**

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

12 Petitioner has a liberty interest in not being re-detained. Applying the three-
13 factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is
14 also high, because ICE’s previous release of him necessarily reflected a conclusion that
15 he was not a flight risk or a danger to the community. Here, as in *Ledesma Gonzalez*,
16 “ICE revoked that release without any reassessment of those factors.” 2025 WL
17 2841574, at *8.

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

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

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

23 Respondents have not complied with their obligations under 8 C.F.R. § 241.13
24 and therefore Petitioner is entitled to release. On information and belief,
25
26

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

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

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

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

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

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

14 **Ground Four: Substantive Due Process**

15 Respondents' policy against parole in all cases supports the conclusion that
16 Petitioner's detention is punitive, as do many reported statements advocating for
17 increased arrests for their own sake. Respondents' refusal to address widespread
18 mistreatment of detained immigrants also supports that conclusion. *See Nicole*
19 *Acevedo, Hundreds of alleged human rights abuses in immigrant detention, report*
20 *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)
21 [news/immigration-detention-human-rights-abuses-report-rcna222499](https://www.nbcnews.com/news/immigration-detention-human-rights-abuses-report-rcna222499)
22 [<https://perma.cc/3XLR-6XHX>]; Center for Human Rights, *Conditions at the Northwest*
23 *Detention Center*, University of Washington,
24 [https://jsis.washington.edu/humanrights/projects/immigrant-rights-](https://jsis.washington.edu/humanrights/projects/immigrant-rights-observatory/conditions-at-the-northwest-detention-center/)
25 [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)
26 [UR6C](https://perma.cc/QF24-UR6C)] (last visited Aug. 28, 2025).

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

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

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

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

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

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

25 Under the Fifth Amendment to the U.S. Constitution, no person shall “be held to
26 answer for a capital, or otherwise infamous crime, unless on a presentment or
27 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 Petitioner was convicted and has completed any sentences for his criminal
10 convictions. His convictions arguably made him removable from the United States, but
11 the convictions do not authorize the government to inflict, as a matter of executive
12 policy and discretion, additional punishment on Petitioner. Respondents’ third-country
13 removal program is punitive in both its nature and its execution.

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

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

1 punishment on their subjects. Such conduct “shocks the conscience” under Fifth
2 Amendment substantive due process, is cruel and unusual punishment, and may not be
3 imposed without charge and a judicial trial.

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

8 **Prayer for Relief**

9 Petitioner respectfully requests that this Court:

- 10 (a) Assume jurisdiction over this action;
- 11 (b) Issue an Order directing Respondents promptly to show cause why this
12 Petition should not be granted;
- 13 (c) Order Respondents to immediately release Petitioner from custody;
- 14 (d) Order that Respondents may not re-detain Petitioner without first holding
15 a hearing before a neutral decisionmaker at which the government bears the burden of
16 establishing flight risk or danger to the community by clear and convincing evidence
17 based on changed circumstances since Petitioner was previously released;
- 18 (e) Order that the government may not otherwise re-detain Petitioner unless
19 the government:
- 20 (1) obtains a valid travel document for him to Vietnam,
- 21 (2) provides the valid travel document to him and his counsel,
- 22 (3) offers Petitioner the opportunity to leave on his own within two
23 months, and
- 24 (4) Petitioner does not leave. Under such circumstances, the government
25 may be permitted to re-detain Petitioner provided it has already made
26

1 concrete arrangements for him to be put on a flight to Vietnam in the
2 reasonably foreseeable future.

3 *See Do v. Scott*, No. C25-2187RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5,
4 2025); *Tang*, 2025 WL 3551381, at *3.

5 (f) Order that Respondents may not remove or seek to remove Petitioner to a
6 third country without notice and meaningful opportunity to respond in compliance with
7 the statute and due process in reopened removal proceedings;

8 (g) Order that Respondents may not remove Petitioner to any third country
9 because Respondents' third-country removal program seeks to impose unconstitutional
10 punishment on its subjects, including imprisonment and other forms of harm; and

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

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

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

20 DATED this 30th day of December 2025.

21 Respectfully submitted,

22 s/ *Colin Fieman*
23 Attorney for Phuc Nguyen
24
25
26