

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAGDAS KESKIN,

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

Cagdas Keskin 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) Full name: Cagdas Keskin
- (b) Other names used: N/A
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 [ICE file number, if known]: My A# has been provided to the government along with the filing of this petition.
3. I am currently being held on orders by federal authorities: United States Immigration and Customs Enforcement.
4. I am 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: My 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 you are challenging: I was taken into custody by ICE on October 18, 2024. I have been detained in ICE custody for over a year including seven months following my final removal order dated May 30, 2025.

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) Date you were taken into immigration custody: October 18, 2024

(b) Date of the removal or reinstatement order: May 30, 2025

(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

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

II. Jurisdiction and Venue

This case arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, *et seq.*

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

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

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

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

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

Petitioner is "in custody" for the purpose of § 2241 because he has been detained by Respondent since October 18, 2024.

IV. Parties

Cagdas Keskin is a citizen of Turkey of Kurdish origin. He came to the United States seeking asylum based on persecution he suffered due to [REDACTED] as well as the loss of his livelihood working as a nurse. He has a final order of removal to Turkey as the country designated for removal. Upon entering the United States on October 18, 2024, he surrendered to immigration authorities. He was originally sent to facilities in Arizona and Mississippi before ultimately arriving at the NWIPC. On May 30, 2025, Mr. Keskin was granted INA withholding of removal to Turkey. Petitioner is detained in the control and custody of Respondents at NWIPC. As such, Petitioner is a resident of Tacoma, Washington.

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

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

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

Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens. Respondent Scott is sued in his official

1 capacity as the Warden of a federal detention facility. *See Juarez v. Asher*, No. CV20-
2 700, 2021 WL 1946222, at *3–5 (W.D. Wash. May 14, 2021).

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

7 **V. Background**

8 Mr. Keskin was born in Turkey on [REDACTED] Facing [REDACTED]
9 in his home country, he fled to the United States and turned himself in at the border in
10 Arizona on October 18, 2024. He came to the United States to apply for asylum, as he
11 fears being returned to Turkey. On May 30, 2025, Mr. Keskin was granted INA
12 withholding, finding that he has legitimate and reasonable fear of being persecuted if
13 returned to Turkey. Mr. Keskin has been in ICE detention for over six months since his
14 final order of removal and order granting INA withholding.

15 If released pending deportation, Mr. Keskin would live with his uncle, Baran
16 Celik, in Clearwater, Florida.

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

18 Petitioner cannot presently be returned to Turkey because he was granted INA
19 withholding, blocking his removal to Turkey. Removal to Turkey is thus not reasonably
20 foreseeable. ICE has not obtained a travel document from Turkey for Petitioner, nor has
21 Turkey agreed to accept Petitioner.

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

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

25 Under 8 U.S.C. § 1231, detention of noncitizens who have been ordered
26 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*, -- F.Supp.3d --, 2025 WL 2419288, *17 (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.”).

B. 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

1 country. 8 U.S.C. § 1231(b)(2)(A). The government may disregard that designation if
2 (1) the individual fails to designate a country promptly; (2) the government of that
3 country does not inform the U.S. government finally, within 30 days after the date the
4 U.S. government first inquires, whether the government will accept the individual into
5 that country; (3) the government of the country is not willing to accept the individual
6 into the country; or (4) the government decides that removing the individual to that
7 country is prejudicial to the United States. 8 U.S.C. § 1231(b)(2)(C).

8 Second, if the individual is not removed to the country they designated under
9 § 1231(b)(2)(A), the government shall remove the individual to the country of which
10 the individual is a “subject, national, or citizen” unless the government of that country
11 does not inform the U.S. government or the individual within 30 days after first inquiry
12 or within another reasonable period of time whether the government will accept the
13 individual into the country or the country is not willing to accept the individual into the
14 country. 8 U.S.C. § 1231(b)(2)(D).

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

1 individual to “another country whose government will accept [them] into that country.”
2 8 U.S.C. § 1231(b)(2)(E)(vii).

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

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

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

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

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

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

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

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

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

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

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

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

25 ² Edward Wong, et al., *Inside the Global Deal-Making Behind Trump’s Mass*
 26 *Deportations*, N.Y. Times (June 25, 2025), <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html> [<https://perma.cc/64G9-XYGB>].

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

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

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

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

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

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

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

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

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

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

Grounds for Relief

Ground One: Petitioner Keskin’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 He Will Be Removed in the Reasonably Foreseeable Future.

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

Because Petitioner Keskin's removal order became final no later than May 30, 2025, the removal period has expired, and detention is no longer required under 8 U.S.C. § 1231. In addition, the presumptively reasonable period of six months has passed.

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

1 granted withholding of removal to Turkey and cannot be deported there absent a
2 significant change in circumstances. Moreover, there have been no apparent efforts
3 undertaken to deport him to any other country.

4 Therefore, the burden shifts to the government to rebut that showing. The
5 government cannot meet that burden under the facts of this case. *See Nguyen v. Scott*,
6 No. CV25-1398, 2025 WL 2419288, at *28–29 (W.D. Wash. Aug. 21, 2025) (granting
7 preliminary injunction requiring release under *Zadvydas*); *Tang*, 2025 WL 2637750, at
8 *6 (same).

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

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

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

23 Prior to any third-country removal, Petitioner must be provided with
24 constitutionally and statutorily compliant notice and an opportunity to respond and
25 contest that removal if he has a fear of persecution or torture in that country in reopened
26 removal proceedings. *See Nguyen*, 2025 WL 2419288, at *29 (granting preliminary
injunction against “removing Petitioner to a country other than [home country] without

1 notice and a meaningful opportunity to be heard in reopened removal proceedings with
2 a hearing before an immigration judge”).

3 **Ground Three: Punitive Third-Country Banishment; Violation of Fifth and**
4 **Eighth Amendments**

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

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

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

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

17 Petitioner Keskin does not have a criminal history. His immigration actions
18 arguably made him removable from the United States, but they do not authorize the
19 government to inflict, as a matter of executive policy and discretion, additional
20 punishment on Petitioner. Respondents’ third-country removal program is punitive in
21 both its nature and its execution.

22 In other cases, the government has arranged for third countries to receive
23 deportees and imprison them on arrival, possibly indefinitely, and often in abhorrent
24 conditions. It has selected countries notorious for human rights abuses and instability
25 for third-country removal arrangements. It has targeted individuals with criminal
26 convictions for third-country removals, where they will be imprisoned and harmed, and

1 has publicly broadcast those removals to demonize and dehumanize the individuals
2 subjected to these practices and strike fear in the immigrant community to send a
3 message of retribution and deterrence.

4 Respondents' third-country removal program is more than a publicity stunt. The
5 hundreds of individuals who have already been subjected to it have been banished in
6 foreign prisons upon arrival without charge and often without communication with the
7 outside world, including their families and lawyers. Respondents may not subject
8 Petitioner to their third-country removal program designed to impose a severe
9 punishment on their subjects. Such conduct "shocks the conscience" under Fifth
10 Amendment substantive due process, is cruel and unusual punishment, and may not be
11 imposed without charge and a judicial trial.

12 Respondents may not seek to remove Petitioner to a third country under their
13 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at *29
14 (granting preliminary injunction against "removing Petitioner to any country where he
15 is likely to face imprisonment upon arrival").

16 **Prayer for Relief**

17 Petitioner respectfully requests that this Court:

- 18 (a) Assume jurisdiction over this action;
- 19 (b) Issue an Order directing Respondents promptly to show cause why this
20 Petition should not be granted;
- 21 (c) Order Respondents to immediately release Petitioner from custody;
- 22 (d) Order that Respondents may not re-detain Petitioner without first holding
23 a hearing before a neutral decisionmaker at which the government bears the burden of
24 establishing flight risk or danger to the community by clear and convincing evidence
25 based on changed circumstances since Petitioner was previously released;
- 26

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

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

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

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

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

16 DATED this 30th day of December 2025.

17 Respectfully submitted,

18 s/ *Andrew D. Kennedy*
19 Assistant Federal Public Defender
20 Attorney for Cagdas Keskin
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