

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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6	SERGEY SINYAYEV,	)	No.
7		)	
8	Petitioner,	)	PETITION FOR WRIT OF HABEAS
9	v.	)	CORPUS UNDER 28 U.S.C. § 2241
10		)	AND REQUEST FOR INJUNCTIVE
11		)	RELIEF
12	PAMELA BONDI, Attorney General of	)	
13	the United States; KRISTI NOEM,	)	
14	Secretary, United States Department of	)	
15	Homeland Security; LAURA	)	
16	HERMOSILLO, Acting Seattle Field	)	
17	Office Director, United States	)	
18	Citizenship and Immigration Services;	)	
19	BRUCE SCOTT, Warden of Immigration	)	
20	Detention Facility; and the United States	)	
21	Immigration and Customs Enforcement,	)	
22		)	
23	Respondents.	)	

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Sergey Mikhaylovich Sinyayev
- (b) Other names used: Sergei Sinyayev; Sergey Sinyaev
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]: 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. Sinyayev challenges his unlawfully prolonged detention and his re-detention on November 17, 2025, without notice or cause. *See* factual statement and discussion, *infra*.

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:

(b) Date of the removal or reinstatement order:

(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 Sergei Sinyayev is presently detained at the Northwest ICE Processing Center (“NWIPC”). Petitioner has been held in immigration custody most recently since November 17, 2025, following six months of detention in 2006. Removal to Russia is not reasonably foreseeable—indeed, the Russian Federation has already refused to accept Mr. Sinyayev. 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.

Mr. Sinyayev was initially ordered removed to Russia on August 28, 2006. The Russian Federation refused to accept him because he was born in the Soviet Union. Mr. Sinyayev spent six months in immigration custody, then was ordered released on an order of supervision. Since March 2007, Mr. Sinyayev lived in the community under supervision without violating any conditions of his release.

In 2016, Mr. Sinyayev suffered a stroke that left him partially paralyzed. He also suffers from eye degeneration that requires eye injections every three months. As a result, Mr. Sinyayev lives in a home for disabled people.

On November 17, 2025, without notice or cause, ICE officers lured Mr. Sinyayev out of his care home and put him into a truck. They took him to the NWIPC detention center, where he has been confined since.

1 Before re-detaining him, Respondents made no determination that Mr. Sinyayev
2 had become a flight risk or a danger to the community. Since he has been detained,
3 Mr. Sinyayev's eyesight has worsened. He receives medication irregularly, which
4 causes his blood pressure and diabetes symptoms to fluctuate dramatically. That, in
5 turn, greatly increases his risk of suffering another stroke.

6 **II. Jurisdiction and Venue**

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

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

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

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

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

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

2 Mr. Sinyayev is “in custody” for the purpose of § 2241 because he has been
3 detained by Respondent ICE in Tacoma, Washington, since November 17, 2025.

4 **IV. Parties**

5 Sergey Sinyayev was a citizen of the USSR, and is now stateless. In 2006, an
6 immigration judge ordered his removal to Russia, but the Russian Federation refused to
7 accept him. Mr. Sinyayev was released on an order of supervision in March 2007.
8 Mr. Sinyayev is detained in the control and custody of Respondents at NWIPC. As
9 such, he is a resident of Tacoma, Washington.

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

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

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

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

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

5 **V. Background**

6 Mr. Sinyayev was born in 1959 in the North Caucasus mountains, in what was
7 previously the USSR. After being persecuted for his faith, Mr. Sinayev entered the
8 United States as a refugee in 1992.

9 In August 2005, Mr. Sinyayev was convicted of attempted sexual abuse and
10 sentenced to 18 months’ imprisonment. An immigration judge ordered his removal to
11 Russia, but the Russian Federation refused to accept him. Accordingly, Mr. Sinyayev
12 was released on an order of supervision in March 2007. That order initially required
13 him to check in at an ICE office in Portland twice a month, then once a month, then
14 every six months, and finally once a year. Mr. Sinyayev complied with his release
15 conditions from the date of his release until ICE re-detained him without notice or
16 cause in November 2025.

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

18 Petitioner cannot presently be returned to Russia, because Russia does not
19 recognize him as a citizen of that country. Additionally, the U.S. State Department has
20 designated Russia an “uncooperative” country based on its refusal to timely produce
21 travel documents for its citizens. *See* Ex. 1. Removal to Russia is thus not reasonably
22 foreseeable. ICE has not obtained a travel document from Russia for Petitioner, nor has
23 Russia agreed to accept Petitioner.

VII. The Legal Framework Regarding Indefinite Detention Pending Removal

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 Russia

1 whether Russia has acknowledged receipt of the request or otherwise responded to
 2 Petitioner's request, and the anticipated wait time for a response from Russia.

3 When a petitioner has been detained for a total of six months after a final order
 4 of removal, the *Zadvydas* presumptively reasonable period has expired, even if the
 5 petitioner's current period of detention is less than six months. "A petitioner's total
 6 length of confinement need not be consecutive to reach the six-month presumptively
 7 reasonable limit established in *Zadvydas*." *Tang v. Bondi*, No. CV25-1473-RAJ-TLF,
 8 2025 WL 2637750, at *4 (W.D. Wash. Sept. 11, 2025).

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

12 The six-month presumptively reasonable period runs unabated once Petitioner's
 13 removal order was final and does not run solely during any period when Petitioner was
 14 detained. In *Tran v. Bondi*, No. CV25-01897-JLR, 2025 WL 3140462 (W.D. Wash.
 15 Nov. 10, 2025), the Hon. James L. Robart held that petitioner's "*Zadvydas* grace period
 16 ended six months following the entry of the order of his removal[.]" *Id.* at *3. The court
 17 reached that conclusion even though the petitioner was not detained until two years
 18 later and despite the Respondents' argument that only five months of the *Zadvydas* six-
 19 month period had expired, based on the times when petitioner was detained. *See Tran*,
 20 No. CV25-01897-JLR, Dkt. 13, Resp't Return Mem. and Mot. to Dismiss at 1, 7 (Oct.
 21 27, 2025). *See also, e.g., Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at *3
 22 (D.N.J. June 13, 2025) (finding that "six-month detention period under *Zadvydas*"
 23 period began upon affirmance of removal order, rejecting argument that petitioner
 24 could not obtain habeas relief because he had not yet been in detention for six months);
 25 *Farez-Espinoza v. Chertoff*, 600 F.Supp.2d 488, 500 (S.D.N.Y. 2009) (concluding that,
 26 where government was aware of noncitizen's address but failed to pursue her removal
 until more than 15 months after removal order was entered, "the removal period, as

1 well as any presumptively reasonabl[e] six-month period of removal to which the
 2 Government may have been entitled” had expired six months after the entry of the
 3 removal order); *Bailey v. Lynch*, No. CV16-2600 (JLL), 2016 WL 5791407, at *2
 4 (D.N.J. Oct. 3, 2016) (where order of removal became effective upon petitioner’s
 5 release from underlying conviction to ICE authorities, after which he was held only
 6 “briefly” before being released on an order of supervision, the *Zadvydas* presumptively
 7 reasonable period ended “long before he was taken back into custody”).

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

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

19 Procedural due process requires notice and an opportunity to be heard. *Mathews*
 20 *v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural
 21 due process rights, a petitioner must establish (1) a protected property or liberty interest,
 22 and (2) a denial of adequate procedural protections. *ASSE Int’l, Inc. v. Kerry*, 803 F.3d
 23 1059, 1073 (9th Cir. 2015). The Court must also consider “the Government’s interest,
 24 including the function involved and the fiscal and administrative burdens that the
 25 additional or substitute procedural requirement would entail.” *Rodriguez Diaz v.*
 26 *Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022) (quoting *Mathews*, 424 U.S. at 335).

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

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

10 First, the private interest that will be affected by the official action;
11 second, the risk of an erroneous deprivation of such interest through the
12 procedures used, and the probable value, if any, of additional or substitute
13 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.

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

15 Given that the liberty interest here is "the most elemental," numerous courts
16 have found that this first factor weighs heavily in a petitioner's favor. *See Ledesma*
17 *Gonzalez*, 2025 WL 2841574, at *7 (This factor "must be accorded significant
18 weight."). Petitioner's status as a noncitizen does not negate that interest. "While the
19 temporary detention of non-citizens may sometimes be justified by concerns about
20 public safety or flight risk, the government's discretion to incarcerate non-citizens is
21 always constrained by the requirements of due process[.]" *E.A. T.-B.*, 795 F.Supp.3d at
22 1321 (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

23 In fact, as an individual who was released by ICE, a petitioner has a higher
24 liberty interest than that of the normal ICE detainee. *See Guillermo M.R. v. Kaiser*,
25 No. CV25-5436-RFL, 2025 WL 1810076, at *1 (N.D. Cal. June 30, 2025) (By alleging
26 that he had previously been released by ICE and was about to be re-detained,

1 “Petitioner has asserted liberty interests that differ from the liberty interests of a
 2 detained person in *Rodriguez Diaz*.”) (referencing *Rodriguez Diaz*, 53 F.4th 1189)).¹
 3 Similarly, in *Carballo v. Andrews*, No. CV25-978-KES-EPG (HC), 2025 WL 2381464,
 4 *4 (E.D. Cal. Aug. 15, 2025), the court indicated that an individual who has been
 5 released has had—in contrast to a detainee with no period of release—“an opportunity
 6 ‘to form the [] enduring attachments of normal life’” (quoting *Morrissey v. Brewer*,
 7 408 U.S. 471, 482 (1972)), and thus has a heightened liberty interest, such as that which
 8 led the Supreme Court in *Morrissey* to impose due process requirements on parolees
 9 where the state seeks to revoke parole.

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

22 The final factor, the government’s interest in detaining a petitioner without
 23 providing a pre-deprivation hearing, also weighs in the petitioner’s favor. “[T]he

24
 25 ¹ *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 government's interest in detaining petitioner without a hearing is low." *Carballo*, 2025
2 WL 2381464, *8 (citation modified). "In immigration court, custody hearings are
3 routine and impose a minimal cost." *Id.* (citation modified).

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

8 The holding that a released detainee was entitled to a pre-deprivation hearing
9 comes not from *Ledesma Gonzalez* and *E.A. T.-B.* alone; dozens of other courts have
10 reached this conclusion as well. And while those two cases did not involve petitioners
11 within final removal orders, many courts have found a liberty interest in not being re-
12 detained, applied the *Mathews* factors as discussed above, and have granted immediate
13 release. In this district, Judge Ricardo S. Martinez held, "[b]ased on this review of the
14 *Mathews* factors, the Court finds that Petitioner has a protected liberty interest in his
15 continuing release from custody, and that due process requires that Petitioner receive
16 proper notice and an opportunity to respond before he can be re-detained." *Jimenez v.*
17 *Bondi*, No. CV25-2167RSM, 2025 WL 3466925, at *2 (W.D. Wash. Dec. 3, 2025)
18 (granting petition, ordering immediate release, and barring re-detention "without
19 providing adequate notice of the reasons for his re-detention and a meaningful
20 opportunity to respond," *id.* at *3). *See also, e.g., Perez v. Mordant*, No. 2:25-CV-
21 00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*,
22 No. 6:25-CV-01425-MTK, 2025 WL 3137296, at *5 (D. Or. Nov. 10, 2025). *Cf. Lopez*
23 *Dejesus, v. Bostock*, No. 25-CV-01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash.
24 Nov. 24, 2025) (applying *Mathews* factors to conclude that petitioner was entitled to
25
26

1 pre-re-detention due process, even though his detention was pursuant to the mandatory
2 detention provisions of 8 U.S.C. § 1226(c)).²

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

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

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

19 The revocation of a noncitizen’s release is governed by 8 C.F.R. § 241.13(i),
20 which authorizes ICE to revoke a noncitizen’s release under § 1231 for purposes of
21 removal or for violation of conditions of release. The government may revoke a
22 noncitizen’s release and return them to ICE custody due to failure to comply with any
23 of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of changed
24 circumstances, the [Immigration] Service determines that there is a significant

25 ² 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).

1 likelihood that the [noncitizen] may be removed in the reasonably foreseeable future,”
2 *id.* § 241.13(i)(2).

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

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

18 *Id.* § 241.13(i)(3).

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

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

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

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

“[S]ubstantive due process prevents the government from engaging in conduct that shocks the conscience, or interferes with rights implicit in the concept of ordered liberty.” *United States v. Salerno*, 481 U.S. 739, 746 (1987) (citation modified). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *see also Zadvydas*, 533 U.S. at 696 (finding that a noncitizen has a liberty interest “strong enough” to challenge “indefinite and potentially permanent” immigration detention). “[I]ndividuals who have been released from custody, even where such release is conditional, have a liberty interest in their continued liberty.” *Doe v. Becerra*, 787 F.Supp.3d 1083, 1093 (E.D. Cal. 2025) (citing *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 150 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)).

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

respondents can prove that “there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.”

Thus, if a re-arrest and detention is punitive or exceeds the justifications permitted by regulation, it violates the individual’s substantive right to due process. Here, Mr. Sinyayev’s continued detention and the denial of needed medical care renders his detention punitive, in the absence of any risk of flight or danger.

XI. 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).

1 Third, if the individual is not removed to either the country of their designation
 2 or the country of which they are a subject, national, or citizen, then the government
 3 shall remove them to any of the following options: (1) the country from which the
 4 individual was admitted to the United States; (2) the country in which is located the
 5 foreign port from which the individual left for the United States or for a foreign
 6 territory contiguous to the United States; (3) the country in which the individual resided
 7 before the individual entered the United States and from which the individual entered
 8 the United States; (4) the country in which the individual was born; or (5) the country in
 9 which the individual's birthplace is located when the individual was ordered removed.

10 8 U.S.C. § 1231(b)(2)(E). *Only* “[i]f impracticable, inadvisable, or impossible” to
 11 remove the individual to any of these countries may the government remove the
 12 individual to “another country whose government will accept [them] into that country.”
 13 8 U.S.C. § 1231(b)(2)(E)(vii).

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

22 Similarly, Congress codified protections enshrined in the Convention Against
 23 Torture (“CAT”) prohibiting the government from removing a person to a country
 24 where they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of
 25 1998 (“FARRA”), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8
 26 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite,

1 or otherwise effect the involuntary return of any person to a country in which there are
2 substantial grounds for believing the person would be in danger of being subjected to
3 torture, regardless of whether the person is physically present in the United States.”);
4 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also
5 mandatory.

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

24 Due process also demands that the government “ask the noncitizen whether he or
25 she fears persecution or harm upon removal to the designated country and memorialize
26 in writing the noncitizen’s response. This requirement ensures DHS will obtain the

1 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
2 about what the officer and noncitizen said].” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,
3 2025 WL 1453640, at *1 (“Following notice, the individual must be given a meaningful
4 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
5 prior to removal.”) (emphasis omitted).

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

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

20 **XII. Facts Pertaining to Punitive Banishment to Third Countries**

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

25 Respondents reportedly have negotiated with at least 58 countries to accept
26 deportees from other nations. On June 25, 2025, the *New York Times* reported that

1 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
2 Rwanda—had agreed to accept deportees who are not their own citizens.³ Since then,
3 ICE has carried out highly publicized third-country deportations to South Sudan and
4 Eswatini. It also attempted—and completed—an “end-run” around the protections of
5 the Convention Against Torture by deporting a group of migrants to Ghana, which sent
6 them on to their countries of citizenship despite fears of persecution.

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

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

25 ³ 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 On July 9, 2025, ICE issued a new memo stating that, when seeking to remove
2 an individual to a country not designated on the removal order, ICE may deport that
3 person without any procedures for notice or an opportunity to be heard if the State
4 Department confirms it has received diplomatic assurances that individuals will not be
5 persecuted or tortured. If no diplomatic assurances are received, the ICE memo
6 instructs officers to serve on the individual a Notice of Removal that includes the
7 intended country of removal. It instructs officers not to ask whether the individual is
8 afraid of removal to that country. It states that officers should “generally wait at least 24
9 hours following service of the Notice of Removal before effectuating removal” but that
10 “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more hours
11 after service of the Notice of Removal as long as the [noncitizen] is provided
12 reasonable means and opportunity to speak with an attorney prior to removal.”

13 The memo further instructs that if the noncitizen “does not affirmatively state a
14 fear of persecution or torture if removed to the country of removal listed on the Notice
15 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
16 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the
17 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration
18 Services (“USCIS”) for a screening for eligibility for withholding of removal and
19 protection under the Convention Against Torture. “USCIS will generally screen within
20 24 hours.” If USCIS determines that the noncitizen does not prove to the screener’s
21 satisfaction that it is more likely than not that the noncitizen will be tortured, the
22 individual will be removed. This imposes on the noncitizen a higher standard than the
23 “reasonable fear” and “credible fear” standards found in the INA. If USCIS determines
24 that the noncitizen has met the standard, then the policy directs ICE to either move to
25 reopen removal proceedings “for the sole purpose of determining eligibility for
26

1 [withholding of removal protection] and CAT” or designate another country for
2 removal.

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

7 **XIII. The Law Governing Punitive Removal Practices**

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

14 Importantly, the Court distinguished deportation, which the Court reasoned is
15 “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion of
16 a citizen from his country by way of punishment,” from government actions aimed at
17 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236.
18 The Court explained that deportation “is but a method of enforcing the return to his own
19 country of [a noncitizen] who has not complied with the conditions upon the
20 performance of which the government of the nation, acting within its constitutional
21 authority and through the proper departments, has determined that his continuing to
22 reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730
23 (1893)). But the Court admonished that the government may not “declare unlawful
24 residence within the country to be an infamous crime, punishable by deprivation of
25 liberty and property . . . unless provision were made that the fact of guilt should first be
26 established by a judicial trial.” *Id.* at 237.

Deportation of individuals to third countries to be imprisoned or harmed is unquestionably punishment. The practice continues. *See Abrego Garcia v. Noem*, et al., 8:25-cv-02780-PX, Dkt. 110 (D. Md. Dec. 11, 2025).

XIV. The Law Governing Injunctive Relief

“An injunction is appropriate when the party seeking relief demonstrates that: (1) it is likely to suffer irreparable injury that cannot be redressed by an award of damages; (2) that “considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted”; and (3) “that the public interest would not be disserved by a permanent injunction.” *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1243 (9th Cir. 2018).

Grounds for Relief

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

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

Because Petitioner’s removal order became final on August 28, 2006, 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 passed in March 2007.

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. Russia has already refused to accept Mr. Sinyayev once. Furthermore, the U.S. State Department has designated Russia an “uncooperative” country based on its refusal to timely produce travel documents for people it identifies as its citizens. Mr. Sinyayev has no meaningful ties to Russia or to any other country.

1 Therefore, the burden shifts to the government to rebut that showing. The
2 government cannot meet that burden under the facts of this case. *See Nguyen*, 796
3 F.Supp.3d 703, 739 (granting preliminary injunction requiring release under *Zadvydas*);
4 *Tang*, 2025 WL 2637750, at *6 (same).

5 **Ground Two: Procedural Due Process**

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

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

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

16 As to Petitioner's prayer for injunctive relief barring a new re-detention absent
17 due process, the requirements for injunctive relief are met. His prospective unlawful re-
18 detention would constitute an irreparable injury that could not be redressed by an award
19 of damages. Second, the balance of hardships is completely in Petitioner's favor:
20 Petitioner risks unlawful re-detention, while Respondents suffer no hardship by being
21 prevented from following their unlawful re-detention practices. Finally, the public
22 interest would affirmatively be served by barring Respondents' unlawful practice.

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

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

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

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' decision to arrest Mr. Sinyayev at his care home despite his
16 medical needs and perfect compliance with supervision was punitive. Their policy
17 against parole in all cases supports the conclusion that Petitioner's detention is punitive,
18 as do many reported statements advocating for increased arrests for their own sake.
19 Respondents' refusal to address widespread mistreatment of detained immigrants also
20 supports that conclusion. *See* Nicole Acevedo, *Hundreds of alleged human rights*
21 *abuses in immigrant detention, report finds*, NBC News (Aug. 5, 2025),
22 [https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-](https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-report-rcna222499)
23 [report-rcna222499](https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-report-rcna222499) [<https://perma.cc/3XLR-6XHX>]; Center for Human Rights,
24 *Conditions at the Northwest Detention Center*, University of Washington,
25 <https://jsis.washington.edu/humanrights/projects/immigrant-rights->
26

1 observatory/conditions-at-the-northwest-detention-center/ [https://perma.cc/QF24-
2 UR6C] (last visited Dec. 30, 2025).

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

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

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

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

24 Furthermore, the requirements for injunctive relief are met. Petitioner's
25 prospective unlawful re-detention would constitute an irreparable injury that could not
26 be redressed by an award of damages. Second, the balance of hardships is completely in
Petitioner's favor: Petitioner risks unlawful removal to a third country, while

1 Respondents suffer no hardship by being prevented from following their unlawful re-
2 detention practices. Finally, the public interest would affirmatively be served by barring
3 Respondents' unlawful practice.

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

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

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

12 The Eighth Amendment provides that no "cruel and unusual punishments" may
13 be inflicted.

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

18 Petitioner was convicted and completed any sentences for his criminal
19 convictions decades ago. Petitioner's convictions made him removable from the
20 United States, but the convictions do not authorize the government to inflict, as a matter
21 of executive policy and discretion, additional punishment on Petitioner. Respondents'
22 third-country removal program is punitive in both its nature and its execution.

23 The government has arranged for third countries to receive deportees and
24 imprison them on arrival, possibly indefinitely, and often in abhorrent conditions. It has
25 selected countries notorious for human rights abuses and instability for third-country
26 removal arrangements. It has targeted individuals with criminal convictions for third-

1 country removals, where they will be imprisoned and harmed, and has publicly
2 broadcast those removals to demonize and dehumanize the individuals subjected to
3 these practices and strike fear in the immigrant community to send a message of
4 retribution and deterrence.

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

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

17 The criteria for an injunction in this case are met. First, unlawful removal to a
18 third country risks irreparable injury that could not be redressed by an award of
19 damages. Second, the balance of hardships is completely in petitioner's favor:
20 Petitioner risks removal to a third country where unwarranted punishment may result,
21 and Respondents suffer no hardship by being prevented from following their unlawful
22 removal policies. Finally, the public interest would affirmatively be served by barring
23 Respondents' unlawful policies. Given the potential for Respondents to attempt a rapid
24 and unlawful removal, Petitioner would have no opportunity to seek injunctive relief at
25 that time.

Prayer for Relief

Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this action;

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

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

(d) Order Respondents to, within 24 hours of his release, provide the Court with a declaration confirming that Petitioner has been released from custody;

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

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

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

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

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

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

See Do v. Scott, No. CV25-2187-RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5, 2025); *Tang*, 2025 WL 3551381, at *3.

1 (g) 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 (h) 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 (i) Order all other relief that the Court deems just and proper.

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

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

16 DATED this 31st day of December 2025.

17 Respectfully submitted,

18 s/ *Gregory Murphy*
19 Assistant Federal Public Defender
20 Attorney for Sergei Sinyayev
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