UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TAYFUN KARA, Petitioner, vs. **PAMELA BONDI**, Attorney General of the United States; **KRISTI NOEM**, Secretary, United States Department of Homeland Security; **LAURA HERMOSILLO**, Field Office Director for ICE Enforcement and Removal Operations; **BRUCE SCOTT**, Warden of Immigration Detention Facility; and the United States Immigration and Customs Enforcement, Respondents.	No. **PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR INJUNCTIVE RELIEF**

PRELIMINARY MATTERS

Petitioner Tayfun Kara, a Turkish citizen, is currently detained at the Northwest ICE Processing Center ("NWIPC"). He was granted withholding of removal and has remained in immigration custody for more than six months *following* that grant. Although withholding of removal is issued in conjunction with a removal order, it legally bars the government from removing him to Turkey, and Mr. Kara has no lawful status or right of residence in any other country. Because removal to any country is not reasonably foreseeable and the government has not identified a lawful alternative country of removal, Mr. Kara's continued detention is unlawful. He therefore respectfully requests that this Court grant the writ and order his immediate release from custody pursuant to 28 U.S.C. § 2241.

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Tayfun Kara

(b) Other names used: None

2. Place of confinement:

(a) Northwest ICE Processing Center ("NWIPC")

(b) 1623 East J Street, Tacoma, Washington 98421, pursuant to a contractual arrangement with his custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.

(c) Case number or numbers: Petitioner's A# has been provided to the government along with the filing of this petition.

3. Petitioner is currently being held on orders by federal authorities: United States Immigration and Customs Enforcement.

4. Petitioner is currently being held on an immigration charge.

Decision or Action You Are Challenging

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

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

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

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

(c) Decision or action you are challenging: Continued immigration detention exceeding six months following the grant of withholding of removal.

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

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: December 22, 2024

(b) Date of the removal or reinstatement order: July 3, 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

Petitioner Taylan Kara is presently detained at the NWIPC. He has been held in immigration custody for more than six months following the grant of withholding of removal. Although withholding of removal is issued in conjunction with a removal order, it legally bars the government from removing Mr. Kara to Turkey, his country of nationality. Because the government is prohibited from effectuating his removal to Turkey and has not identified a lawful alternative country of removal, there is no significant likelihood of removal in the reasonably foreseeable future. Mr. Kara's continued detention therefore violates *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), bears no reasonable relation to any legitimate governmental purpose, and is unlawful under the Immigration and Nationality Act.

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-706-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

First, Mr. Kara's detention cannot continue when the government is barred from removing him to Turkey and, after six months, has not effectuated his removal to any other country or identified any other country to which he can be removed. Second, the government cannot remove Petitioner to some other country without properly giving him notice and an opportunity to be heard regarding removal to that country. Because Respondents cannot justify Mr. Kara's continued detention under the U.S. Constitution or federal statutes and regulations, he requests that this Court grant the writ and order Respondents to immediately release his from custody. 28 U.S.C. § 2241.

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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-706-8744
Adam.boyd@ghp-law.net
WA Bar NO. 49849

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 Tayfun Kara is "in custody" for purposes of 28 U.S.C. § 2241 because he has been detained by Respondent ICE since December 22, 2024, and has been held at NWIPC in Tacoma, Washington since his transfer there on January 7, 2025.

IV. Parties

Petitioner Tayfun Kara is a citizen and national of Turkey. He is subject to a final order of removal and has been granted withholding of removal, which legally bars the government from removing him to Turkey. Petitioner is detained in the control and custody of Respondents at the 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.

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

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

V. Background

Petitioner is a citizen of Turkey who entered the United States without inspection on or about December 22, 2024. He is not a citizen or resident of any other country and has not lived in any country other than Turkey and the United States. Mr. Kara last entered the United States in December 2024 after fleeing persecution and torture inflicted upon him in Turkey. Petitioner was apprehended, detained, and initially placed into removal proceedings on March 17, 2025 (see Exhibit 1). Within these proceedings, Petitioner sought asylum, withholding of removal under § 241(b)(3) of the Immigration and Nationality Act ("INA") and withholding of removal under the Convention Against Torture. He remained detained at the NWIPC for the duration of his removal proceedings.

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

On July 3, 2025, the Immigration Judge issued a final order in Petitioner's immigration proceedings. The Immigration Judge found Petitioner inadmissible under INA § 212(a)(6)(A)(i), denied his application for asylum, and entered an order of removal. The Immigration Judge nevertheless granted Petitioner withholding of removal as to Turkey, thereby barring his removal to Turkey because it is more likely than not that he would face harm there. Both parties waived appeal, and the decision became administratively final on July 3, 2025. Petitioner has been detained at the NWIPC since that date. Petitioner's continued detention became unconstitutional six months after the removal order became administratively final on July 3, 2025.

VI. Particularized Facts Pertaining to Petitioner's Continued Detention

Mr. Kara's removal from the United States is not reasonably foreseeable because, despite the grant of withholding of removal, ICE has taken no concrete steps to effectuate his removal to any country. ICE cannot remove Mr. Kara to Turkey, and it has not identified, designated, or pursued removal to any alternative country. Moreover, Mr. Kara has no lawful status or right of residence in any third country, rendering removal to another country legally and practically infeasible. As a result, ICE cannot remove him to Turkey, and to date no other country has agreed to accept him as a possible deportee or been identified as a viable destination. Moreover, there have been no genuine, documented efforts to secure travel documents or effectuate his removal to any alternative country. Even if ICE were able to obtain travel documents to a third country, it would not be able to effectuate that removal because it failed to designate any other countries of proposed removal in the underlying proceedings. The statute describes the designation process and clearly outlines countries to which an individual can properly be removed. *See* 8 U.S.C. § 1231. This designation process is not pro forma; it is a due process requirement that ensures an individual is able to seek international protections

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

from removal to a country that may violate the U.S.'s non-refoulment obligations. Respondents failed to properly designate any countries other than Turkey in Mr. Kara's removal proceedings and has now kept him detained for an unconstitutionally long period of time. Absent an order from this Court, Petitioner will likely remain detained for many more months, if not years.

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)(l)(A). This period begins on the "date the order of removal becomes administratively final." 8 U.S.C. § 1231(a)(l)(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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

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.").

Here, Respondents cannot establish that Mr. Kara's removal is significantly likely in the reasonably foreseeable future. ICE has not identified any country willing to accept him, and there is no pending or active travel-document process that would render removal practicable within any foreseeable timeframe.

B. The six-month presumptively reasonable period runs from the final removal order.

At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See* Zadvydas, 533 U.S. at 701 (stating that "Congress previously doubted the constitutionality of detention for more than six months" and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also* Clark v. Martinez, 543 U.S. 371, 386 (2005).

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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

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

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

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

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

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

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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

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

IX. 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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO. 49849

within another reasonable period of time whether the government will accept the individual into the country or the country is not willing to accept the individual into the country. 8 U.S.C. § 1231(b)(2)(D).

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

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

Similarly, Congress codified protections enshrined in the Convention Against Torture (CAT) prohibiting the government from removing a person to a country where they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

("FARRA"), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."); 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also mandatory.

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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO. 49849

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

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

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

X. Facts Pertaining to Punitive Banishment to Third Countries

Since January 2025, Respondents have developed and implemented a policy and practice of removing individuals to third countries, without first following the procedures

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

in the INA for designation and removal to a third country and without providing fair notice and an opportunity to contest the removal in immigration court.

Respondents reportedly have negotiated with at least 58 countries to accept deportees from other nations. On June 25, 2025, the *New York Times* reported that seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees who are not their own citizens.[1] Since then, ICE has carried out highly publicized third-country deportations to South Sudan and Eswatini. It also attempted—and completed—an "end-run" around the protections of the Convention Against Torture by deporting a group of migrants to Ghana, which sent them on to their countries of citizenship despite fears of persecution.

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

---

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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49889

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

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

The memo further instructs that if the noncitizen "does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the Notice of Removal within 24 hours, [ICE] may proceed with removal to the country identified on the notice." If the noncitizen "does affirmatively state a fear if removed to the country of removal," then ICE will refer the case to U.S. Citizenship and Immigration Services ("USCIS") for a screening for eligibility for withholding of removal and protection under the Convention Against Torture. "USCIS will generally screen within 24 hours." If

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp.legal
WA Bar NO. 49849

USCIS determines that the noncitizen does not meet the standard, the individual will be removed. If USCIS determines that the noncitizen has met the standard, then the policy directs ICE to either move to reopen removal proceedings "for the sole purpose of determining eligibility for [withholding of removal protection] and CAT" or designate another country for removal.

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

XI. The Law Governing Punitive Removal Practices

It is bedrock law that the U.S. government may not impose or inflict an infamous punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court ruled that while deportation itself was not a punishment, the government could not attach punitive conditions to deportation—in that case, imprisonment at hard labor—absent a criminal charge, trial in a court of law, and the protections of the Fifth, Sixth, 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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-6744
Adam.boyd@ghp-law.net
WA Bar NO. 49849

Court admonished that the government may not "declare unlawful residence within the country to be an infamous crime, punishable by deprivation of liberty and property . . . unless provision were made that the fact of guilt should first be established by a judicial trial." *Id.* at 237.

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

Grounds for Relief

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

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

Because Petitioner's removal order became final on July 3, 2025, the removal period has long since expired, and detention is no longer required under 8 U.S.C. § 1231. In addition, the presumptively reasonable period of six months has passed. Petitioner has been detained by Respondents for total of over twelve months. Over six months of this prolonged detention has taken place after his removal period concluded. Petitioner's removal order became administratively final on July 3, 2025. The removal period began on that day and thus elapsed on January 3, 2026.

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's prolonged detention is not likely to end in the reasonably foreseeable future. His removal to Turkey has been withheld and Respondents are unlikely to secure removal to any other countries as non were designated in the underlying removal proceedings. Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

effectuating removal and thus violates due process. See Zadvydas, 533 U.S. at 690, 699–700.

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

Ground Two: Violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture, Implementing Regulations

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

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

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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49889

Any argument that Petitioner's claim is barred by the *D.V.D.* class action should be rejected. Courts in this District have held the *D.V.D.* class certification does not prevent adjudication of individualized third-country due process challenges, and that this Court must follow binding Ninth Circuit precedent requiring notice and reopened proceedings before an immigration judge.

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

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

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

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

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

The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" Id. at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO. 49849

The first justification of preventing flight, however, is "by definition . . . weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is "no longer practically attainable, detention no longer 'bears [a] reasonable relation to the purpose for which the individual [was] committed.'" Id. (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, "preventive detention based on dangerousness" is permitted "only when limited to especially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 690–91.

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

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

Adam W. Boyd
Gibbs Houman Pierce
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-208-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49889

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

Prayer for Relief

Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this action;

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

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

(d) Order 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 notice and an opportunity to be heard unless Respondents have evidence detention is authorized under 8 C.F.R. § 241.13(i)(1).

(f) Order that Respondents are enjoined from removing Petitioner to any third country unless they first provide constitutionally and statutorily compliant advance notice of the proposed country of removal and a meaningful opportunity to respond and contest removal in reopened removal proceedings before an immigration judge;

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

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

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

Verification Pursuant to LCR 100(e)

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

DATED this 12th day of January 2026.

Respectfully submitted,

Counsel for Petitioner
/s/ Adam W. Boyd
Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849

Adam W. Boyd
Gibbs Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-708-8744
Adam.boyd@ghp-law.net
WA Bar NO: 49849