

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GAGANDEEP SINGH,

Petitioner,

vs.

PAMELA BONDI, Attorney General of the
United States; KRISTI NOEM, Secretary,
United States Department of Homeland
Security; LAURA HERMOSILLO, Acting
Seattle Field Office Director, United States
Citizenship and Immigration Services;
BRUCE SCOTT, Warden of Immigration
Detention Facility; and the United States
Immigration and Customs Enforcement,

Respondents.

No. 2:26-cv-962

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

Petitioner Gagandeep Singh respectfully petitions the Court for: (1) a writ of habeas corpus directing Respondents to release him forthwith from unlawful detention, and (2) an injunction preventing Respondents from irreparably harming him by removing him without due process of law or removing him to a country where he will face imprisonment, servitude, or other forms of punishment.

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

A. Personal Information

1. (a) Full name: Gagandeep Singh.

(b) Other names used: N/A.

2. Place of confinement:

(a) Northwest Immigration Processing Center (NWIPC).

(b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a contractual arrangement with my custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.

(c) Case number or numbers: 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.

B. Decision or Action You Are Challenging

5. What are you challenging in this petition: unlawful detention and the imminent threat of removal to a third country without due process or where he will face imprisonment, servitude, or other forms of punishment.

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: Singh's A# has been provided to the government along with the filing of this petition.

(c) Decision or action you are challenging: We are challenging Petitioner's unlawful detention. Singh was detained by Canadian authorities on February 20, 2025, after he unintentionally crossed the unmarked border between Canada and the United States while visiting a family member at the Peace Arch Park in Blaine, Washington. Canadian authorities

1 transferred him to ICE custody the same day. He has been in ICE custody ever since—for
2 13 months and counting. Singh challenges his detention because he has been held without due
3 process and for far longer than is permitted by law, and there is no significant likelihood of
4 removal to India. Further, Singh seeks an injunction preventing Respondents from removing him
5 to a third country without due process.

6 **C. Your Earlier Challenges of the Decision or Action**

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

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

9 11. Appeals of immigration proceedings: Does this case concern immigration
10 proceedings? Yes.

11 (a) Date you were taken into immigration custody: February 20, 2025.

12 (b) Date of the removal or reinstatement order: Singh was ordered removed
13 on February 18, 2020 and granted withholding of removal to India.

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

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

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

18 **INTRODUCTION**

19 13. Respondents are currently detaining Petitioner Gagandeep Singh at the Northwest
20 ICE Processing Center (NWIPC) in Tacoma, Washington. Respondents have held Singh in
21 immigration custody—without notice, a hearing, or any other due process—for more than
22 13 months, since February 20, 2025. Singh’s removal is not reasonably foreseeable. He has been
23 granted withholding of removal to India and Respondents have not notified him of the possibility
24 of removal to any third country. Singh’s continued detention therefore violates the rule
25 announced in *Zadvydas v. Davis*, 533 U.S. 678, 680 (2001), which requires a “significant
26 likelihood of removal in the reasonably foreseeable future” to justify continued detention of a
noncitizen beyond six months. *Id.* at 701.

1 14. Singh respectfully petitions the Court to: (a) order forthwith his release;
2 (b) prohibit Respondents from re-detaining him unless they establish by clear and convincing
3 evidence at a hearing before a neutral decision-maker that, based on changed circumstances,
4 Singh is a flight risk or a danger to the community; (c) enjoin Respondents from removing him
5 to a third country without notice and meaningful opportunity to respond; and (d) enjoin
6 Respondents from removing him to a third country where he would face imprisonment,
7 servitude, or other forms of punishment.

8 **JURISDICTION AND VENUE**

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

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

16 17. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et*
17 *seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act, 28 U.S.C.
18 § 1651; the Due Process Clause of the Fifth Amendment; and the Court's inherent equitable
19 powers.

20 18. Venue is proper in this district under 28 U.S.C. § 1391(e)(1) because Respondents
21 are agencies or officers of agencies of the United States; Respondents Hermosillo and Scott
22 reside in this district; and Singh is detained in this district. Venue is also proper under 28 U.S.C.
23 § 1391(b)(2) because a substantial part of the events or omissions giving rise to Singh's claims
24 occurred in this district.

25 19. Because Singh seeks relief related only to his custody status, which is not
26 inconsistent with an order of removal, exhaustion of administrative remedies, if any, is not
required.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

20. Singh is “in custody” for the purpose of § 2241 because Respondent ICE has detained him in Tacoma, Washington, since February 20, 2025.

PARTIES

21. Gagandeep Singh is a citizen of India. He has resided in the United States since 2013. He is currently detained in the control and custody of Respondents at NWIPC. As such, Singh is a resident of Tacoma, Washington.

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

23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). In this capacity, Respondent Noem is an additional legal custodian of Singh. Respondent Noem is sued in her official capacity.

24. 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 Singh’s immediate custodian, responsible for his detention at NWIPC, and is the person with the authority to detain or release Singh. Respondent Hermosillo is sued in her official capacity.

25. Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day operation of the NWIPC, and has immediate physical custody of Singh pursuant to a contract with ICE. 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).

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

BACKGROUND

1
2 27. Singh is a citizen of India. He was born and lived in Punjab, and Singh and his
3 family [REDACTED]

4 [REDACTED] In 2013, fearing for his safety, Singh fled India and sought refuge in the
5 United States. He entered the United States in Arizona. ICE detained him for approximately
6 45 days and then released him on bond.

7 28. In 2015, Singh applied for asylum in the United States. While his case was
8 pending, he was granted a work permit. He earned a class A commercial driver's license and
9 worked as a truck driver until his detention in 2025.

10 29. On February 18, 2020, an immigration judge issued a final order of removal but
11 granted withholding of removal to India because the judge determined that it was more likely
12 than not that Singh would be persecuted if he were removed to India (the "2020 Order").

13 30. On January 30, 2023, California Highway Patrol arrested Singh in Stockton,
14 California and charged him with unlawful possession of firearms. Singh pled not guilty and was
15 released on bail. The criminal charges against Singh are still pending.¹

16 31. On February 20, 2025, Singh traveled to the Peace Arch border park in Blaine,
17 Washington, to meet his cousin, who lives in Canada. Singh intended only to see his cousin; he
18 did not intend to leave the United States. However, Singh unintentionally crossed the border.²
19 He was detained by Canadian authorities. They transferred him to ICE custody the same day,
20 and ICE immediately detained Singh at NWIPC.

21 32. ICE has detained Singh at NWIPC for 13 months with no end in sight. ICE has
22 not provided Singh with notice of the basis for his detention, a hearing, or any subsequent review
23 of, or opportunity to challenge, his detention.

24 33. Despite the 2020 Order granting Singh withholding of removal to India because

25 ¹ ICE's detention of Singh caused him to miss a court date in his pending criminal case. As a
26 result, there is currently a bench warrant outstanding for his arrest.

² Others have made a similar mistake. *See, e.g., Z.A. v. Hermosillo*, No. C26-144, 2026 WL 538455, at *1 (W.D.Wash. Feb. 26, 2026).

1 he was likely to suffer harm if he were removed to India, ICE officials have repeatedly sought
2 Singh's consent or authorization to cancel his withholding and remove him to India.

3 34. Approximately 90 days after ICE detained Singh, ICE officials directed him to
4 sign a blank piece of paper. Singh complied, and the officials then informed him that they would
5 use his signature to cancel his withholding and facilitate his removal to India.

6 35. Approximately 9 months into his detention, ICE officials informed Singh that
7 they would never release him into the United States. They told him he would be detained forever
8 unless he reopened his case and cancelled his withholding of removal.

9 36. On March 13, 2026, ICE officials again urged Singh to cancel his withholding of
10 removal so that they could remove him to India. Singh continues to fear that if he is removed to
11 India he will be persecuted and beaten due to his religion and political affiliations.

12 37. In light of his withholding of removal, Singh cannot be removed to India. Singh
13 does not want to be removed to any other country because he has earned a commercial truck
14 driver's license, can obtain work to support himself, and has ties to the community in the United
15 States. He does not have similar prospects in any other country.

16 **RELEASE FROM UNLAWFUL DETENTION**

17 38. Respondents' continued detention of Singh is unlawful for two independent
18 reasons, either of which by itself would be a sufficient basis to grant his request for an order
19 directing Respondents forthwith to release him. First, he has received no due process—neither
20 notice of the purported basis for his ongoing detention nor an opportunity to present to a neutral
21 decisionmaker the reasons he should be released. Second, he has been detained far longer than
22 the six-month period recognized as reasonable by *Zadvydas* in the absence of some reasonably
23 foreseeable likelihood of his removal. For each of these reasons, the Court should grant Singh's
24 petition for an order directing Respondents to release him forthwith.

25 **First Ground for Relief**

26 **Respondents' Continued Detention of Singh Without Due Process is Unlawful (Due
Process Clause of Fifth Amendment; 8 U.S.C. § 1231)**

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

1 40. Respondents have detained Singh for 13 months, well beyond any reasonable or
2 lawful period of detention. Despite this extensive period of detention, they have not provided
3 notice of the reasons he is being held or afforded him an opportunity to explain to a neutral
4 decisionmaker why he should be released. Respondent's continued detention of Singh without
5 due process is unlawful.

6 41. "Freedom from imprisonment—from government custody, detention, or other
7 forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause
8 of the Fifth Amendment. *Zadvydas*, 533 U.S. at 690. Accordingly, while detention of noncitizens
9 who have been ordered removed is mandatory during the so-called 90-day "removal period" that
10 begins on the "date the order of removal becomes administratively final," 8 U.S.C.
11 § 1231(a)(1)(A), (a)(1)(B)(i), the immigration laws' "basic purpose" is not to detain noncitizens,
12 but to effectuate their removal. *Zadvydas*, 533 U.S. at 697. "[O]nce removal is no longer
13 reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

14 42. Detention is "presumptively reasonable" for six months after entry of a removal
15 order. *Id.* at 701. "After this 6-month period, once the [noncitizen] provides good reason to
16 believe that there is no significant likelihood of removal in the reasonably foreseeable future, the
17 Government must respond with evidence sufficient to rebut that showing." *Id.* There is no such
18 evidence in Singh's case.

19 43. Further, "as the period of prior postremoval confinement grows, what counts as
20 the 'reasonably foreseeable future' conversely would have to shrink." *Id.* Respondents have
21 detained him for the last 13 months, more than twice the presumptively reasonable six-month
22 period.

23 44. Respondents have not provided Singh notice of why he is being detained, and nor
24 have they afforded him the opportunity to explain to a neutral decisionmaker why he should not
25 be detained.

26 45. Respondents have not met and cannot meet the standard required to continue
Singh's detention. Where a noncitizen cannot be removed to the country designated for removal

1 in their removal order, courts have required that the government present specific evidence of
 2 removal in the foreseeable future. *See, e.g., Mosquera Camacho v. Hermosillo*, No. 25-cv-02457,
 3 2026 WL 628297, at *3 (W.D. Wash. Mar. 6, 2026) (finding no evidence of impending removal
 4 because “[r]espondents have not identified a third country to which they can remove Petitioner,
 5 let alone secured travel documents and made other necessary arrangements to effectuate a
 6 removal.”); *Yukseoglu v. Bondi*, No. C26-467, 2026 WL 617367, at *3 (W.D. Wash. Mar. 5,
 7 2026) (finding accusations of mere “noncooperation” by the noncitizen insufficient when “not
 8 tied to any concrete plan for removal to a specific country”). A statement that Respondents “are
 9 actively pursuing removal” is insufficient; “[c]ourts in this District and elsewhere have
 10 repeatedly and consistently rebuffed Respondents’ ongoing campaign to equate ‘We’re trying’
 11 with ‘We will.’” *Mosquera Camacho*, 2026 WL 628297, at *4.

12 46. In light of Singh’s withholding of removal to India the likelihood of removal to
 13 that country is not reasonably foreseeable. Further, Singh is aware of no efforts by Respondents
 14 to remove him to a third country and he has no significant connections to any country other than
 15 India. Singh therefore has “good reason to believe that there is no significant likelihood of
 16 removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 680. Respondents’ ongoing
 17 detention of Singh under these circumstances is unlawful; he must be released forthwith.

18 Second Ground for Relief

19 **Respondents’ Failure to Provide Notice and Hearing Violates Singh’s Right to Procedural** 20 **Due Process and Justifies Immediate Release from Detention (Due Process Clause of** 21 **Fifth Amendment; 8 U.S.C. § 1231; Administrative Procedure Act; Implementing** 22 **Regulations)**

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

24 48. Procedural due process requires notice and an opportunity to be heard. *Mathews*
 25 *v. Eldridge*, 424 U.S. 319, 332–35 (1976). To state a claim for a violation of procedural due
 26 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, 1074 (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).

49. Singh’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 (W.D. Wash. 2025) (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. 25-CV-1404, 2025 WL 2841574, at *8 (W.D. Wash. Oct. 7, 2025) (finding detainee has liberty interest); *Tran v. Bondi*, No. 2:25-CV-02335, 2025 WL 3725677, at *5 (W.D. Wash. Dec. 24, 2025) (finding that detainee with final order of removal has liberty interest and fact that detainee was allowed to remain in community under order of supervision “only strengthens this interest”); *Khim v. Bondi*, No. 2:25-CV-02383, 2025 WL 3653724, at *4 (W.D. Wash. Dec. 17, 2025) (applying the *Mathews* analysis from *E.A. T.-B.* to detainee with final order of removal); *Rodriguez v. Bondi*, No. C25-2167, 2025 WL 3466925, at *2 (W.D. Wash. Dec. 3, 2025) (finding that petitioner with final order of removal “has a protected liberty interest in his continuing release from custody, and that due process requires that [p]etitioner receive proper notice and an opportunity to respond before he can be re-detained”).

50. 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).

51. Given that the liberty interest here is “the most elemental,” numerous courts have

1 found that this first factor weighs heavily in a petitioner's favor. *See, e.g., Ledesma Gonzalez*,
 2 2025 WL 2841574, at *7 (this factor "must be accorded significant weight"). Singh's status as a
 3 noncitizen does not negate that interest. "While the temporary detention of non-citizens may
 4 sometimes be justified by concerns about public safety or flight risk, the government's discretion
 5 to incarcerate non-citizens is always constrained by the requirements of due process[.]" *E.A. T.-*
 6 *B.*, 795 F. Supp. 3d at 1321 (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).
 7 Here, "ICE revoked that release without any reassessment of those factors." *See Ledesma*
 8 *Gonzalez*, 2025 WL 2841574, at *8.

9 52. The second factor, risk of an erroneous deprivation of liberty, also weighs in
 10 Singh's favor. DHS briefly detained Singh when he entered the country in 2013. He was released,
 11 granted a work permit in 2015, and granted withholding of removal in 2020. He has no criminal
 12 convictions and has complied fully with the terms of his release. DHS's decision to grant him
 13 release in 2013 reflects a determination that Singh was neither a flight risk nor a danger to the
 14 community, and the government has not identified any changed circumstances that would affect
 15 that determination. *See, e.g., Ledesma Gonzalez*, 2025 WL 2841574, at *8 (when ICE released
 16 petitioner, "it did so after determining—as required by regulation—that 'such release would not
 17 pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future
 18 proceeding.' . . . By issuing the OREC, ICE necessarily found that [petitioner] was neither a flight
 19 risk nor a danger to the community.") (quoting 8 C.F.R. § 236.1(c)(8)); *Barrenechea v. Albarran*,
 20 No. 25-CV-7883, 2025 WL 2717279, at *1 (N.D. Cal. Sep. 22, 2025) ("ICE's release of
 21 Barrenechea on his own recognizance in 2020 can only be understood as reflecting a
 22 determination that he did not pose a flight risk or danger to the community."). Further, even if
 23 circumstances *had* changed, ICE's own regulations require that ICE give the noncitizen notice
 24 of the reasons for revocation and an opportunity to challenge the determination. No such process
 25 occurred here, making the risk of erroneous deprivation extraordinarily high.

26 53. The final factor, the government's interest in detaining a petitioner without
 providing a pre-deprivation hearing, also weighs in Singh's favor. "[T]he government's interest

1 in detaining petitioner without a hearing is low.” *Carballo v. Andrews*, No. 1:25-CV-00978-,
 2 2025 WL 2381464, at *8 (E.D. Cal. Aug. 15, 2025) (cleaned up). “In immigration court, custody
 3 hearings are routine and impose a minimal cost.” *Id.* (cleaned up). Further, while legitimate
 4 government interests “justify a relatively short-term deprivation of liberty,” that balance “shifts
 5 as the noncitizen’s detention is prolonged without any particularized assessment of need.” *Black*
 6 *v. Decker*, 103 F.4th 133, 154 (2nd Cir. 2024).

7 54. Immigration regulations incorporate these due process standards into specific
 8 procedures. Respondents have not complied with them. The revocation of a noncitizen’s release
 9 is governed by 8 C.F.R. §§ 241.4 and 241.13. The government may revoke a noncitizen’s release
 10 and return them to ICE custody due to failure to comply with any of the conditions of release or
 11 if, “on account of changed circumstances, [DHS] determines that there is a significant likelihood
 12 that the [noncitizen] may be removed in the reasonably foreseeable future.” 8 C.F.R.
 13 §§ 241.4(l)(2), 241.13(i)(1)–(2). Both sections establish certain required process for the
 14 revocation of release. Respondents have not informed Singh that they believe he has violated
 15 any of the conditions of his release, nor have they informed him that as the result of changed
 16 circumstances he is likely to be removed in the foreseeable future.

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

21 the [noncitizen] will be notified of the reasons for revocation of
 22 his or her release. [ICE] will conduct an initial informal interview
 23 promptly after his or her return to [ICE] custody to afford the
 24 [noncitizen] an opportunity to respond to the reasons for
 25 revocation stated in the notification. The [noncitizen] may submit
 26 any evidence or information that he or she believes shows there is
 no significant likelihood he or she be removed in the reasonably
 foreseeable future, or that he or she has not violated the order of
 supervision. The revocation custody review will include an
 evaluation of any contested facts relevant to the revocation and a

determination whether the facts as determined warrant revocation and further denial of release.

Id. § 241.13(i)(3); *see also Delkash v. Noem*, No. 5:25-cv-01675, 2025 WL 2683988, at *4 (C.D. Cal. Aug. 28, 2025) (“In simpler terms, in order to revoke release, the government must notify the noncitizen of the *reason* for the revocation and give them both *an informal and formal interview*.”). Respondents have not notified Singh of the reasons for revocation of his release. Respondents have not afforded him an opportunity to present evidence or explain why there is no significant likelihood that he will be removed in the foreseeable future. Respondents have not informed Singh that they have evaluated the facts relating to his detention and determined that it is warranted. Respondents have afforded Singh no due process at all.

56. If Respondents were to conduct a hearing to justify re-detention, they would bear the burden of establishing flight risk or danger by clear and convincing evidence. *See Sanchez-Rivera v. Matuszewski*, No. 22-CV-1357, 2023 WL 139801, at *7 n.5 (S.D. Cal. Jan. 9, 2023) (noting that “an overwhelming majority of courts” have so held); *Odinara v. Bostock*, No. CV24-1412-MJP-TLF, 2025 WL 1490395, at *10 (W.D. Wash. Mar. 27, 2025), *report and recommendation adopted*, No. C24-1412, 2025 WL 1489705, at *1 (W.D. Wash. May 23, 2025) (citing cases). There is no basis of which Singh is aware for concluding that he is a flight risk or a danger to the community. The government therefore could not make the showing required lawfully to detain him.

57. ICE’s decision to re-detain also cannot be arbitrary. The government must consider the factors laid out in 8 C.F.R. § 241.13(f), including:

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

1 *Id. See also Phan v. Beccerra*, No. 2:25-CV-01757, 2025 WL 1993735, at *3 (E.D. Cal. July 16,
2 2025). While courts do not make these determinations in the first instance, they may review them
3 for compliance with the regulation. *See id.*; *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150 (D. Mass.
4 2025) (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)). There is no indication
5 that the government has considered these factors, let alone made a rational decision on the basis
6 of them.

7 58. Beyond violating Singh's due process rights, Respondents have also not complied
8 with their obligations under 8 C.F.R. § 241.13. On information and belief,

- 9 a. Respondents did not timely notify Singh in writing of the reasons for revocation
10 in a manner to which he could reasonably respond;
11 b. Respondents did not conduct the required initial informal interview;
12 c. Respondents did not afford Singh an opportunity to respond; and
13 d. Respondents did not advise Singh of the right to request a review of the detention;
14 e. Respondents did not make a determination either that, on account of changed
15 circumstances there was a significant likelihood that Singh would be removed in
16 the reasonably foreseeable future, or that Singh had violated the conditions of his
17 release;
18 f. to the extent that Respondents made such a determination, they lacked an
19 adequate basis to do so and did not properly consider the factors specified in the
20 regulations;
21 g. and Respondents did not comply with the requirements for such review.

22 59. His re-detention was therefore contrary to Respondents' regulations and
23 unlawful. Singh must be forthwith released.

24 **INJUNCTION PROTECTING AGAINST UNLAWFUL REMOVAL**

Third Ground for Relief

The Court Should Issue an Order Prohibiting Respondents from Removing Singh to a Third Country Without Notice and an Opportunity to be Heard (Fifth Amendment; 8 U.S.C. § 1231; Convention Against Torture; Implementing Regulations)

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

61. In light of Respondents' current policies, the Court should enjoin Respondents from removing Singh to a third country without notice and an opportunity to be heard by a neutral decisionmaker.

62. 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 S.F. v. Trump*, 897 F.3d 1225, 1243 (9th Cir. 2018). Here, Singh cannot be removed to India. Current immigration policies make it likely that without an injunction Respondents will remove him to a third country without necessary due process.

63. DHS granted Singh withholding of removal to India on February 18, 2020—meaning an immigration judge found "objective evidence that it is more likely than not that [Singh would] be subject to persecution upon deportation" to India. *See Robleto-Pastora v. Holder*, 591 F.3d 1051, 1057 (9th Cir. 2010). Singh therefore cannot be removed to India. *See* 8 U.S.C. § 1231(b)(3).

64. "Where the Government cannot remove a noncitizen to the country specified in their removal order, it may attempt to remove that person to a third country, but in doing so, it must comply both with the INA, 8 U.S.C. § 1231(b), and the Due Process Clause." *Sanchez v. Bondi*, No. C25-2573, 2026 WL 160882, at *6 (W.D. Wash. Jan. 31, 2026). 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." 8 U.S.C. § 1231(b)(3); *see also* 8 C.F.R. §§ 208.16, 1208.16. Similarly, the Convention Against Torture

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

8 65. “To comply with due process, the Government must provide sufficient notice and
 9 a meaningful opportunity for the noncitizen to present any claim of fear of persecution or harm
 10 upon removal to a designated third country.” *Sanchez*, 2026 WL 160882, at *6. Due process
 11 requires “written notice of the country being designated” and “the statutory basis for the
 12 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d
 13 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-10676,
 14 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All removals to third countries, i.e., removal
 15 to a country other than the country or countries designated during immigration proceedings as
 16 the country of removal on the non-citizen’s order of removal, must be preceded by written notice
 17 to both the non-citizen and the non-citizen’s counsel in a language the non-citizen can
 18 understand.” (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due
 19 process requires notice to the noncitizen of the right to apply for asylum and withholding to the
 20 country where they will be removed). Singh has received no such notice.

21 66. The government must also present evidence that the third country will accept the
 22 individual into that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004), *as*
 23 *amended sub nom. El Himri v. Ashcroft*, No. 03-71152, 2004 WL 1879255 (9th Cir. Aug. 24,
 24 2004) (“at the time the government proposes a country of removal pursuant to
 25 § 1231(b)(2)(E)(vii), the government must be able to show that the proposed country *will* accept
 26 the [individual]”). The government has not identified to Singh any third country that will accept
 him.

1 67. Due process also demands that the government “ask the noncitizen whether he or
2 she fears persecution or harm upon removal to the designated country and memorialize in writing
3 the noncitizen’s response. This requirement ensures DHS will obtain the necessary information
4 from the noncitizen to comply with [8 U.S.C.] § 1231(b)(3) and avoids [a dispute about what the
5 officer and noncitizen said].” *Aden*, 409 F. Supp. 3d at 1019–20. The government has not
6 identified a third country to Singh or inquired whether he would fear persecution if removed to
7 that country.

8 68. If the noncitizen claims fear, measures must be taken to ensure that the noncitizen
9 can seek asylum, withholding, and relief under CAT before an immigration judge in reopened
10 removal proceedings. *Cf. D.V.D. v. U.S. Dep’t of Homeland Sec.*, 2025 WL 1453640, at *1
11 (granting a preliminary injunction requiring the government to move to reopen the noncitizen’s
12 immigration proceedings if the individual demonstrates “reasonable fear” and to provide “a
13 meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening of
14 their immigration proceedings” if the noncitizen is found to not have demonstrated “reasonable
15 fear”); *see also D.V.D. v. U.S. Dep’t of Homeland Sec.*, 2026 WL 521557 (D. Mass. Feb. 25,
16 2026) (declaring that the government’s third country removal policy is unlawful), *subsequently*
17 *stayed by Order Granting Administrative Stay, D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 26-
18 1212 (1st Cir. Mar. 11, 2026); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice and time for a
19 respondent to file a motion to reopen and seek relief).

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

25 70. Despite these statutory requirements, since January 2025, Respondents have
26 developed and implemented a policy and practice of removing individuals to third countries
without following the procedures in the INA for designation and removal to a third country and

1 without providing fair notice and an opportunity to contest the removal in immigration court.
 2 Indeed, Respondents' policy is to round up as many noncitizens as possible and remove them
 3 without due process. *See, e.g.,* Jose Olivares, "Trump administration sets quota to arrest
 4 3,000 people a day in anti-immigration agenda," *The Guardian* (May. 29, 2025),
 5 <https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota>
 6 [<https://perma.cc/6P5L-NUDM>].

7 71. On July 9, 2025, ICE issued a memorandum stating that, when seeking to remove
 8 an individual to a third country, ICE may deport that person without any notice or opportunity
 9 to be heard if the State Department confirms it has received diplomatic assurances from the
 10 receiving country that individuals will not be persecuted or tortured. *See* Todd M. Lyons, "Third
 11 Country Removals Following the Supreme Court's Order in *Department of Homeland Security*
 12 *v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)" (hereinafter the "ICE memo"). If State does not
 13 receive diplomatic assurances, the ICE memo instructs officers to serve on the individual a
 14 Notice of Removal that includes the intended country of removal. *Id.* at 1. It instructs officers
 15 "not" to ask whether the individual is afraid of removal to that country. *Id.* It states that officers
 16 should "generally wait at least 24 hours following service of the Notice of Removal before
 17 effectuating removal," but that "[i]n exigent circumstances, [ICE] may execute a removal order
 18 six (6) or more hours after service of the Notice of Removal as long as the [noncitizen] is
 19 provided reasonable means and opportunity to speak with an attorney prior to removal." *Id.*

20 72. The memo further instructs that if the noncitizen "does not affirmatively state a
 21 fear of persecution or torture if removed to the country of removal listed on the Notice of
 22 Removal within 24 hours, [ICE] may proceed with removal to the country identified on the
 23 notice." *Id.* at 2. If the noncitizen "does affirmatively state a fear if removed to the country of
 24 removal," then ICE will refer the case to U.S. Citizenship and Immigration Services ("USCIS")
 25 for a screening for eligibility for withholding of removal and protection under the Convention
 26 Against Torture. "USCIS will generally screen [noncitizen] within 24 hours." *Id.* If USCIS
 determines that the noncitizen does not prove to the screener's satisfaction that the noncitizen

1 “would more likely than not be persecuted . . . or tortured in the country of removal” the
 2 individual will be removed. *Id.* The ICE memo’s “more likely than not” standard is higher than
 3 the “reasonable fear” and “credible fear” standards set forth in the INA. *See, e.g.*, 8 CFR
 4 § 208.31. If USCIS determines that the noncitizen has met the standard, then the policy directs
 5 ICE to either move to reopen removal proceedings “for the sole purpose of determining
 6 eligibility for [withholding of removal protection] and CAT” or designate another country for
 7 removal.³ ICE Memo at 2.

8 73. Noncitizens who have been granted withholding of removal to their home
 9 countries, like Singh, appear particularly likely to be removed to a third country. On Feb. 14,
 10 2026, the *New York Times* reported that nine noncitizens, “nearly all of whom had been granted
 11 U.S. court protections from being sent back to their home countries” had been removed to
 12 Cameroon without due process.⁴ The noncitizens claim they have “been told by local authorities
 13 that they cannot leave the facility unless they agree to return to their home countries.” *Id.* Further,

14 ³ The government does not deny that this is the meaning of its policy. In his opinion in *D.V.D.*
 15 *v. U.S. Dep’t of Homeland Sec.*, 2026 WL 521557, Judge Murphy recounts the following
 16 colloquy:

17 THE COURT: I want to make sure that I understand your position correctly, that,
 18 if the Government is saying, We can deport people to any country that is not
 19 prohibited on the notice of removal, and we are not obligated to listen to anything
 20 that the deportee has to say about the danger of torture or death that they may face
 21 there -- if that’s your position, okay. Great. I understand your position.

22 But I don’t want to mischaracterize your position; so that’s why I’m saying it back
 23 to you, to make sure.

24 Is your position that the Government can decide right now that someone who is in
 25 their custody is getting deported to a third country, give them no notice and no
 26 opportunity to say, I will be killed the moment I arrive there, and, as long as the
 Department doesn’t already know that there’s someone standing there waiting to
 shoot him, that that’s fine?

DEFENSE COUNSEL: In short, yes.

Id. at *27. While Judge Murphy’s holding is stayed pending appeal, Order Granting
 Administrative Stay, *D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 26-1212 (1st Cir.
 Mar. 11, 2026), the government has not indicated the above passage does not accurately
 reflect its position.

⁴ Pranav Baskar and Hamed Aleaziz, *U.S. Deports Nine Migrants in Secret, Ignoring Legal Protections*, N.Y. Times (Feb. 14, 2026), <https://www.nytimes.com/2026/02/14/world/africa/us-secret-deportation-cameroon.html?smid=nytcore-ios-share> [https://perma.cc/HX2S-MTZD].

these deportations happened without notice: “Several of the men and women deported . . . told The Times they did not know they were being sent to Cameroon until they were handcuffed and chained on a Department of Homeland Security flight leaving Alexandria, La., on Jan. 14.” *Id.*

74. An immigration judge granted Singh withholding of removal to India due to the likelihood he would be persecuted if he were to return. He has significant connections to no other country. He is currently in ICE detention. Respondents’ policy and practice of removing noncitizens without required due process has not changed since Singh was detained. These facts create a concrete, imminent risk that Respondents will remove him to a third country without due process.

75. Singh meets the requirements for an injunction. Without injunctive relief he is likely to be removed to a third country without due process—an irreparable injury that cannot be redressed by an award of damages. *See City & Cnty. of S.F.*, 897 F.3d at 1243. Respondents would suffer no hardship from an order requiring them to provide Singh required due process; simply being required to follow the law is not a hardship. Finally, the public interest would be well served by requiring Respondents to follow the law and grant Singh due process before removal to a third country.

Fourth Ground for Relief

The Court Should Issue an Order Prohibiting Respondents from Removing Singh to any Third Country Where He Would Face Imprisonment, Servitude or Other Forms of Punishment (Fifth Amendment; Eighth Amendment; 8 U.S.C. § 1231; Convention Against Torture; Implementing Regulations)

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

77. 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

1 imprisonment at hard labor in addition to deportation. *Id.* at 236. The Court explained that
 2 deportation “is but a method of enforcing the return to his own country of [a noncitizen] who has
 3 not complied with the conditions upon the performance of which the government of the nation,
 4 acting within its constitutional authority and through the proper departments, has determined that
 5 his continuing to reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S.
 6 698, 730 (1893)). But the Court admonished that the government may not “declare unlawful
 7 residence within the country to be an infamous crime, punishable by deprivation of liberty and
 8 property . . . unless provision were made that the fact of guilt should first be established by a
 9 judicial trial.” *Id.* at 237.

10 78. Deportation of individuals to third countries where they will be subject to
 11 imprisonment, servitude, or other harm is punishment. Despite this, since January 2025,
 12 Respondents have developed and implemented a policy and practice of removing individuals to
 13 prisons in third countries. Respondents reportedly have negotiated with at least 58 countries to
 14 accept deportees from other nations. On June 25, 2025, the *New York Times* reported that the
 15 current Administration “is trying to set up a network of nations that accept people from anywhere
 16 in the world and put them in prisons, camps or other facilities.”⁵ Since then, ICE has carried out
 17 highly publicized third-country deportations to South Sudan and Eswatini. It also attempted—
 18 and completed—an “end-run” around the protections of the Convention Against Torture by
 19 deporting a group of migrants to Ghana, which sent them on to their countries of citizenship
 20 despite fears of persecution.

21 79. The Administration has reportedly negotiated with countries to have deportees
 22 imprisoned in prisons, camps, or other facilities. The government paid El Salvador about
 23 \$5 million to arbitrarily and indefinitely imprison more than 200 deported Venezuelans in a
 24 maximum-security prison notorious for gross human rights abuses, known as CECOT. In
 25

26 ⁵ Edward Wong, et al., *Inside the Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times (June 25, 2025), <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html> [https://perma.cc/64G9-XYGB].

1 February 2025, Panama and Costa Rica took in hundreds of deportees from countries in Africa
2 and Central Asia and imprisoned them in hotels, a jungle camp, and a detention center. On July 4,
3 2025, ICE deported eight men to South Sudan. The men have been detained incommunicado
4 ever since. On July 15, 2025, ICE deported five men to the tiny African nation of Eswatini, where
5 they are reportedly being held in solitary confinement.

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

12 81. Respondents' third country removal program is clearly punitive nature. As such,
13 it violates the constitutional rights of those who are subject to it, but—by design—often too late
14 for them to seek recourse or protection from the courts.

15 82. Such conduct constitutes cruel and unusual punishment, and may not be imposed
16 without charge and judicial trial.

17 83. Being removed to a country in which he would face imprisonment, servitude, or
18 other forms of punishment would cause Singh irreparable injury. *City & Cnty. of S.F.*, 897 F.3d
19 at 1243. Prohibiting Respondents from removing Singh to such a country would impose no
20 hardship on them; simply being required to follow the law is not a hardship. Finally, the public
21 interest is well served by requiring government officials to follow the law.

22 **Prayer for Relief**

23 Singh respectfully requests that this Court:

- 24 (a) Assume jurisdiction over this action;
- 25 (b) Order Respondents to immediately release Singh from custody;
- 26 (c) Order Respondents to, within 24 hours of his release, provide the Court with a
declaration confirming that Singh has been released from custody;

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

5 (e) Order that the government may not re-detain Singh to effect removal to India
6 because Singh has been granted withholding of removal to India;

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

10 (h) Order that Respondents may not remove Singh to any third country in which he
11 would face imprisonment, servitude, or other forms of punishment; and

12 (i) Order all other relief that the Court deems just and proper.
13

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

15 Counsel verifies that this petition is authorized by Singh. It does not personally bear
16 Singh's signature because of the significant difficulty for counsel in meeting with Singh in
17 person and because mailing the petition to Singh and having it mailed back would cause delay
18 that would only extend the period of his unlawful detention. Counsel knows the facts asserted
19 above or alleges them on information and belief, based on information obtained from the
20 government and/or Singh.
21
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23
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25
26

1 DATED this 20th day of March, 2026.

2 Respectfully submitted,

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