

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CARLOS A. SARABASA,

Petitioner,

v.

DIRECTOR OF UNITED STATES  
IMMIGRATION & CUSTOMS  
ENFORCEMENT, et al.,

Respondents.

CASE NO.: 2:26-cv-00969-RSM

**AMENDED PETITION FOR WRIT OF  
HABEAS CORPUS AND INJUNCTIVE  
RELIEF**

NOTE ON MOTION CALENDAR:  
May 4, 2026

**I. INTRODUCTION**

1. Petitioner Carlos A. Sarabasa-Cobas (A# [REDACTED]) is presently detained at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. He is a 39-year-old Cuban immigrant who—like his father years before—arrived in the United States after fleeing political persecution due to his opposition to the Cuban government. Petitioner first arrived in the United States in 2012 pursuant to a family reunification visa. Petitioner is now married to a U.S. citizen and, together, he and his wife are raising eight children—all of whom are also U.S. citizens.

2. Following a conviction for attempted bank fraud (to which Petitioner pled guilty in 2016), Petitioner served a 41-month sentence in Bureau of Prisons (BOP) custody. After completing his sentence in March 2020, Petitioner was immediately detained by U.S. Immigration and Customs Enforcement (ICE), placed in removal proceedings, and subsequently ordered removed from the United States to Cuba on June 17, 2020. But the Department of Homeland Security (DHS) was unable to repatriate Petitioner to Cuba and, after detaining Petitioner for six months, it released him on September 15, 2020, under an Order of Supervision. Petitioner has lived under the unexecuted removal order ever since, all the while complying with his conditions of supervision and living a productive and law-abiding life. In the last five years, Petitioner has maintained gainful employment, started his own family-run business, and cared for his family of ten, including one minor daughter with complex medical needs.

3. Beginning in August 2025, however, everything changed. During a routine ICE check-in, Petitioner's ICE Officer told him that, given the new presidential administration and recent immigration policy changes, Petitioner was required to wear an ankle monitor and to find a new country to which he could relocate. Petitioner did as instructed and began making plans to move his family to Canada, where he and his wife would seek asylum with their eight children.

4. Petitioner hired a Canadian immigration lawyer to advise and assist in the application process and repeatedly informed his ICE Officer of his intention to seek Canadian asylum. Prior to his departure, Petitioner obtained his ICE Officer's express permission to travel to the border. The Officer not only removed Petitioner's ankle monitor to allow for his air travel

1 from Florida to the border but also provided a written letter stating that Petitioner was *required*  
 2 to leave the United States by February 16, 2026. After making extensive arrangements to move,  
 3 including by selling his home, Petitioner flew to Seattle, Washington on February 16 and  
 4 presented himself at the U.S.-Canadian border the same day. But instead of being permitted to  
 5 enter Canada as expected, the Canadian border officials held Petitioner for hours before turning  
 6 him over to United States Border Patrol. Petitioner was then placed in ICE custody and transferred  
 7 to NWIPC, where he has been detained without explanation ever since.

8 5. To this day, ICE has not provided Petitioner with any legal justification for his  
 9 re-detention, nor is there any indication that Respondents are making meaningful efforts to  
 10 remove him. Cuba denounced Petitioner's citizenship in 2025 and is unlikely ever to accept him.

11 6. Petitioner's re-detention violates substantive and procedural due process because  
 12 there is no proper justification for re-detaining him, his removal is not significantly likely in the  
 13 reasonably foreseeable future, and he did not receive notice and a hearing before ICE revoked his  
 14 supervised release. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). ICE also violated its own  
 15 regulations governing the revocation of release under supervision when it re-detained Petitioner,  
 16 *see* 8 C.F.R. §§ 241.13(i), 241.4(l), and ICE's third country removal policy threatens to deprive  
 17 Petitioner of his procedural due process rights. Accordingly, Petitioner seeks (a) immediate  
 18 release; (b) an order prohibiting further re-detention unless Respondents either obtain a travel  
 19 document from Cuba and a departure flight, or establish before an Immigration Judge that a lawful  
 20 basis exists for Petitioner's re-detention; and (c) an order preventing Petitioner's removal to a  
 21 third country without prior notice and a meaningful opportunity to respond in reopened removal  
 22 proceedings.

## 23 **II. JURISDICTION AND VENUE**

24 7. This case arises under the Constitution of the United States, the Immigration and  
 25 Nationality Act (INA), 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedure Act (APA), 5  
 26 U.S.C. §§ 500-96, 701-06.

1        8.        This Court has subject matter jurisdiction under 28 U.S.C. § 2241, *et seq.* (habeas  
2 corpus), U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal question), 28  
3 U.S.C. § 1346 (United States as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Respondents  
4 have waived sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

5        9.        The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et*  
6 *seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act, 28 U.S.C.  
7 § 1651; and the Court's inherent equitable powers.

8        10.       Venue is proper in this District pursuant to 28 U.S.C. § 1391(e)(1) because  
9 Respondents are agencies or officers of agencies of the United States, Respondents reside in this  
10 District, Petitioner is detained in this District, and a substantial part of the events or omissions  
11 giving rise to Petitioner's claims occurred in this District.

### 12 **III. PARTIES**

13        11.       Petitioner Carlos Sarabasa-Cobas is a Cuban immigrant who arrived in the United  
14 States in 2012. He has a final order of removal, with Cuba as the country designated for removal.  
15 Petitioner is detained in the control and custody of Respondents at NWIPC in Tacoma,  
16 Washington. Petitioner is a resident of Florida and has been detained at NWIPC since February  
17 17, 2026.

18        12.       Respondent ICE is the federal executive agency responsible for the enforcement of  
19 immigration laws, including the arrest, detention, and removal of noncitizens. Respondent ICE is  
20 a legal custodian of Petitioner.

21        13.       Respondent DHS is a federal executive agency responsible for, among other things,  
22 enforcing federal immigration laws and overseeing lawful immigration to the United States.  
23 Respondent DHS is a legal custodian of Petitioner.

24        14.       Respondent Todd Blanche is the Acting Attorney General of the United States. In  
25 this capacity, Respondent Blanche is a legal custodian of Petitioner. Respondent Blanche is sued  
26 in his official capacity.  
27

1 15. Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day  
2 functioning of the NWIPC, and has immediate physical custody of Petitioner, pursuant to a  
3 contract with ICE to detain noncitizens. Respondent Scott is sued in his official capacity as the  
4 Warden of a federal detention facility. *See Juárez v. Asher*, No. C20-700, 2021 WL 1946222, at  
5 \*3-5 (W.D. Wash. May 14, 2021).

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

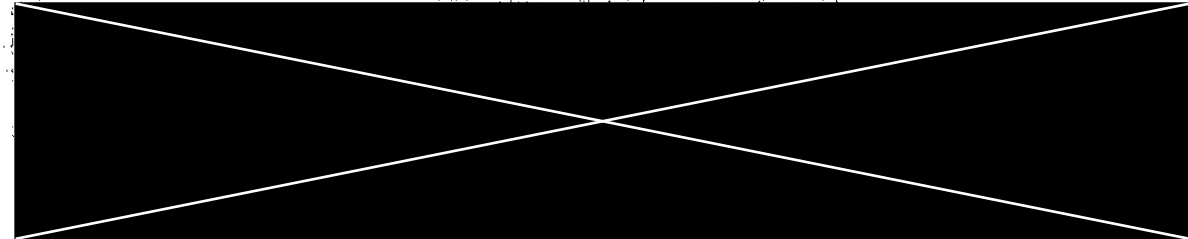
11 17. Respondent Todd Lyons is Acting Director and Senior Official Performing the  
12 Duties of the Director of ICE. Respondent Lyons is responsible for ICE's policies, practices, and  
13 procedures, including those relating to removal procedures and the detention of immigrants  
14 during their removal procedures. Respondent Lyons is a legal custodian of Petitioner. Respondent  
15 Lyons is sued in his official capacity.

16 18. Respondent Markwayne Mullin is the Secretary of DHS. In this capacity,  
17 Respondent Mullin is a legal custodian of Petitioner. Respondent Mullin is sued in his official  
18 capacity.

19 **IV. STATEMENT OF FACTS**

20 **A. Petitioner's Background**

21 19. Petitioner Carlos A. Sarabasa-Cobas was born in Cuba in 1987. His childhood in  
22 Cuba was a difficult one. Petitioner was never close with his mother, who was largely absent and  
23 physically abusive; to this day, 



1 government as a humanitarian gesture ahead of Pope John Paul II's visit to Cuba in 1998.<sup>1</sup>  
2 Petitioner's father then entered the United States in 2000 as a political refugee and obtained lawful  
3 permanent resident status in 2001.

4 20. With his father's help, Petitioner immigrated to Florida as a young adult in April  
5 2012, entering the country lawfully pursuant to a family reunification visa. Upon his arrival in the  
6 United States, Petitioner moved in with his father and stepmother in Florida. But the home was  
7 dysfunctional and Petitioner's relationship with his father quickly deteriorated. At the time, the  
8 U.S. government was providing Petitioner with food stamps and a small stipend to support his  
9 transition into the country while Petitioner worked towards obtaining social security and work  
10 authorization, but Petitioner's father took all of that for himself. Both his father and stepmother  
11 also antagonized Petitioner for not working, even though he could not yet legally do so. Just one  
12 month after Petitioner arrived in Florida, his father kicked him out of the house and he became  
13 homeless.

14 21. For months, Petitioner slept either on the street or inside an abandoned house. He  
15 obtained a work authorization in or around June 2012 and began working at a car wash, and then  
16 a factory, but earned little money and continued to struggle with homelessness. It was during this  
17 period that Petitioner fell in with a difficult crowd. Petitioner became acquainted with individuals  
18 who earned their living through illicit means, which included intercepting money orders and  
19 checks from mailboxes, and he was solicited to participate in their illicit enterprise. Once  
20 Petitioner obtained stable housing, he attempted to leave the group but was threatened with  
21 blackmail. Police executed a search warrant of Petitioner's residence in April 2015 and on August  
22 4, 2016, he was indicted on one count of attempt and conspiracy to commit bank fraud.

23  
24  
25 <sup>1</sup> See José de Córdoba, *Cuba to Free 2,010 Prisoners Amid Talks With The U.S.*, Wall St. J.  
26 (Apr. 3, 2026), [https://www.wsj.com/world/cuba-to-free-2-010-prisoners-amid-talks-with-the-u-](https://www.wsj.com/world/cuba-to-free-2-010-prisoners-amid-talks-with-the-u-s-4f605693)  
27 [s-4f605693](https://www.wsj.com/world/cuba-to-free-2-010-prisoners-amid-talks-with-the-u-s-4f605693) (describing Cuba's history of mass prisoner releases in conjunction with high profile  
events, including the release of 300 prisoners in 1998 as a gesture for the visit of Pope John Paul  
II).

22. Meanwhile, Petitioner met his now-spouse, Mayulis Garcia, and the two began a serious relationship. Ms. Garcia was a single mother to six children whose biological father had walked out on their lives. Petitioner eventually moved in with Ms. Garcia and her family, assuming the role of father figure and embracing Ms. Garcia's children as his own. Petitioner feels deeply bonded with his step-children, who value his guidance and routinely seek his advice. Petitioner also obtained work at an insulation warehouse, where he was employed for approximately seven months before his indictment. Petitioner and Ms. Garcia welcomed their daughters, S.S.G. and C.S.G., in January 2016 and June 2017, respectively. All eight of Petitioner's and Ms. Garcia's children are U.S. citizens by birth. Ms. Garcia was naturalized in 2014.

23. On November 8, 2016, Petitioner entered a guilty plea and, on February 15, 2017, was sentenced to 41 months in BOP custody and five years of supervised release. Petitioner served the entirety of his federal custodial sentence. During this time, he attended classes related to parenting and reentry into society, both of which he credits for helping him become the person he is today. Petitioner recognizes the errors of his past behavior and takes full responsibility and accountability for his actions. He acknowledges the harm he caused and regrets the choices he made that led to his conviction.

24. On March 11, 2020, Petitioner was released from BOP custody and immediately transferred to ICE detention at the Adelanto ICE Processing Center in California. In June 2020, while Petitioner was still detained, an Immigration Judge ordered him removed from the United States, designating Cuba as the country of removal. Declaration of Madison Welsh ("Welsh Decl."), Ex. 1 at 1-2. The government has represented that Petitioner's removal order became final on June 17, 2020.<sup>2</sup> See Welsh Decl., Ex. 2 at 4 (listing "Date Order Final" as June 17, 2020); Ex. 5 at 2 (same); Ex. 7 at 1 (same).

<sup>2</sup> The INA and its implementing regulations specify the manner by which removal orders become final. 8 U.S.C. § 1231(a)(1)(B); 8 C.F.R. § 1241.1. Here, the government stated on

(continued...)

**B. Petitioner's Release and Rehabilitation**

25. DHS ultimately did not succeed in executing the removal order because Cuba refused to accept Petitioner's return.

26. Because he could not be removed from the United States, Petitioner was released from ICE custody on September 15, 2020, under an Order of Supervision (Welsh Decl., Ex. 5), which required, among other conditions, regular check-ins with ICE (*id.* at 2). Petitioner returned to Florida the following day.

27. Around this time, Petitioner's young daughter was experiencing serious health issues and had been in and out of the Intensive Care Unit. In 2020, Petitioner's daughter was diagnosed with a severe chronic condition that has required her to endure chemotherapy and a bone marrow transplant. She has also been diagnosed with other, co-occurring serious medical conditions.

28. Starting in or around March 2021, Petitioner's daughter was hospitalized for three months so that she could receive the bone marrow transplant from her sibling. Ms. Garcia quit her job in order to care for the couple's daughter in the hospital, while Petitioner assumed sole financial responsibility for their family and a predominant role in caring for the couple's seven other children, all while still assisting with his daughter's medical care. Every day, Petitioner would go to work, come home, cook for the family, deliver meals to Ms. Garcia and their daughter in the hospital, and then return home again to repeat this cycle the next day.

29. During this time period after his release from ICE custody, Petitioner worked a variety of jobs. He built fences and sheds before working for an insulation company and later, worked for a towing company. In 2021, Petitioner and Ms. Garcia married, and several years later in 2025, they opened a family-run business together—a car carrier service.

30. Petitioner was gainfully employed from the time of his release until May 2025,

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Petitioner's Order of Supervision and Revocation Notice that his order of removal became final on June 17, 2020.

1 when he suffered a severe on-the-job injury that has prevented him from continuing to work.  
2 Petitioner was transporting cars when a large truck collided into him, resulting in a broken collar  
3 bone and an injured spine. Petitioner underwent back surgery, hip surgery, and neck surgery to  
4 treat his injuries. A doctor advised him not to return to work during his recovery and  
5 rehabilitation, which lasted for approximately nine months until January of this year.

6 31. Since Petitioner's injury in May 2025, Ms. Garcia has been the family's sole  
7 income provider while Petitioner has assumed primary childcare responsibilities. While Ms.  
8 Garcia works, Petitioner supervises the children, takes them to school, picks them up after, helps  
9 them with homework, and manages their daughter's medical appointments and treatments.

10 32. On March 17, 2025, Petitioner received a letter from the Probation Office for the  
11 United States District Court, Middle District of Florida, confirming that he had completed his  
12 BOP supervision. To date, Petitioner has also fully complied with the terms of his ICE  
13 supervision. *See* Welsh Decl., Ex. 5 at 2-4. For over five years, Petitioner lived freely and  
14 productively in his community without issue—having never missed an ICE check-in nor receiving  
15 as much as a speeding ticket.

16 **C. Petitioner's Re-Detention**

17 33. On August 13, 2025, Petitioner attended a routine ICE check-in at the ICE Field  
18 Office in Tampa, Florida. His ICE officer held Petitioner in the office for several hours—far  
19 longer than usual. When Petitioner asked what was going on, the officer explained that, given the  
20 recent change in administration and accompanying immigration policy changes, Petitioner would  
21 be required to wear an ankle monitor and placed one on Petitioner. The officer further instructed  
22 Petitioner to find another country that would accept him and his family in light of Cuba's refusal  
23 to accept him. The officer suggested Petitioner look into Canada, Colombia, and the Dominican  
24 Republic. Petitioner had never before considered departing the United States, as he had  
25 established a life and family in Florida. Petitioner nevertheless dutifully complied with his ICE  
26 officer's instructions and began researching his options.

27 34. As a first step, Petitioner sought to confirm for himself that Cuba would not accept

1 his return. In late 2025, Petitioner contacted his mother—his only remaining tie to Cuba—and  
2 pleaded for her assistance. Petitioner's mother begrudgingly agreed to help and contacted the  
3 Cuban government to investigate whether they would accept him back. The Cuban government  
4 refused and provided Petitioner's mother with official letters memorializing that position. Welsh  
5 Decl., Ex. 6. The letters, which bear the stamp of the Cuban Ministry of the Interior, state that  
6 Petitioner's "passport is revoked," he "is not welcome in this country," "he is not registered as a  
7 Cuban citizen," and when the United States had sought to return him to Cuba in 2020, he "was  
8 not accepted because he abandoned the country." *Id.* at 2, 6. After forwarding these letters to  
9 Petitioner, his mother told him to never call her again.

10 35. Petitioner and Ms. Garcia began exploring options other than Cuba, including  
11 Canada as Petitioner's ICE officer had suggested. They decided that Canada was the best and  
12 safest option for their family and decided to pursue Canadian asylum. To aid in that process and  
13 ensure compliance with Canadian law, the two hired a Canadian immigration lawyer from a firm  
14 called Megrez Immigration Consultants.

15 36. Meanwhile, wanting to ensure compliance with his Order of Supervision and U.S.  
16 immigration law, Petitioner informed his ICE officer of his family's developing plans to seek  
17 asylum in Canada. Petitioner discussed the matter with the officer on multiple occasions and the  
18 officer never raised concerns. To the contrary, the officer helped facilitate Petitioner's departure.  
19 As part of the process for seeking asylum in Canada, Petitioner understood he was required to  
20 present proof that the United States wanted him to leave, so Petitioner asked the officer whether  
21 any such documentation exists. On or around January 13, 2026, the officer presented Petitioner  
22 with a letter on ICE letterhead stating that Petitioner was "being provided this opportunity to plan,  
23 prepare for and carry-out your own departure from the United States," and that his "[d]eparture  
24 flight must be no later than February 16th, 2026." Welsh Decl., Ex. 7 at 1. The letter further stated  
25 that "[f]ailure to comply with the conditions of this plan of action will result in your arrest,  
26 detention and removal from the United States." *Id.* On February 15, Petitioner had a final check-  
27 in with his ICE officer in preparation for his trip to Canada. Petitioner asked the officer whether

1 ICE would attempt to arrest him if he tried to leave the country, to which the officer answered in  
2 the negative. The officer then removed Petitioner's ankle monitor to allow for his air travel from  
3 Florida to the northern border. Petitioner and Ms. Garcia had also sold their mobile home in  
4 preparation for their planned move to Canada.

5 37. On February 16, 2026, Petitioner boarded a flight from Tampa, Florida, to Seattle,  
6 Washington. Petitioner then took a taxi from the Seattle airport to the U.S.-Canada border, where  
7 he met up with his Canadian attorney. Then, Petitioner—still accompanied by his lawyer—  
8 presented himself to Canadian border patrol agents and stated that he wished to seek asylum in  
9 Canada. Canadian officials told Petitioner he could not apply for asylum given his prior  
10 conviction, but advised that he could nonetheless apply for separate relief called "PRRA"—a  
11 "pre-removal risk assessment"—and Petitioner agreed to proceed with this option.

12 38. Although the process took hours, it looked promising, so, late in the evening,  
13 Petitioner's lawyer departed and instructed Petitioner to call him once he was permitted to pass  
14 into Canada. After Petitioner's attorney left, however, the situation deteriorated. Canadian  
15 officials informed Petitioner that they needed confirmation from the United States that it would  
16 no longer accept him. Petitioner presented the letter he had received from his ICE officer, to no  
17 avail. The Canadian border agents called U.S. authorities, who had no record of the letter and  
18 demanded Petitioner's return. Petitioner was then turned over to the U.S. Border Patrol and held  
19 overnight. The following day, on February 17, 2026, he was transported to NWIPC in Tacoma,  
20 Washington, where he has been detained in ICE custody ever since.

21 39. After several weeks passed and Petitioner remained in ICE detention without  
22 explanation, Ms. Garcia (acting pro se and on Petitioner's behalf through a power of attorney)  
23 commenced the instant action on March 20, 2026, by filing a petition for a writ of habeas corpus  
24 seeking Petitioner's release from detention. Dkt. 1.

25 40. On or around March 25, 2026—approximately five days after Ms. Garcia  
26 commenced this action and over a month after Petitioner was detained—an ICE officer  
27 approached Petitioner to conduct an interview. In that interview, the officer told Petitioner he

1 needed to leave the United States. Petitioner attempted to explain the circumstances leading to his  
2 detention, including his plans to seek asylum in Canada, but the officer refused to let Petitioner  
3 explain, causing the interview to end. The entire interaction lasted about 10-15 minutes, including  
4 the time it took to secure a translator.

5 41. The following day, on March 26, 2026, Petitioner was finally presented with a  
6 Notice of Revocation and related paperwork. Welsh Decl., Ex. 2. The documents do not provide  
7 any written reason for Petitioner's re-detention and instead contain instructions telling Petitioner  
8 to "[c]ontact the countries of Costa Rica, Brazil, and Colombia to see if they will accept you  
9 into their country." *Id.* at 2-3. Petitioner has no ties to any of these countries.

10 42. At no time since Petitioner's re-detention has any ICE officer explained the reasons  
11 for Petitioner's re-detention or afforded him a meaningful opportunity to explain why he should  
12 not be re-detained.

13 43. Upon information and belief, Respondents had not obtained a travel document for  
14 Petitioner from Cuba or from any other country at the time of his re-detention, nor have  
15 Respondents applied for any travel documents as of the time of filing this Amended Petition.

16 44. Petitioner's re-detention has caused tremendous hardship to Petitioner, his spouse,  
17 and their eight children. Petitioner's prolonged detention and separation from his family—for  
18 which ICE still has provided no explanation or justification whatsoever—has been nothing short  
19 of a traumatic experience that has taken a substantial mental toll on him and his spouse, Ms.  
20 Garcia. In Petitioner's absence, Ms. Garcia has been forced to assume sole caretaking  
21 responsibility for the couple's many children, including a young daughter with significant and  
22 complex medical needs, while she also works full time to financially support their family. Having  
23 sold their home, Ms. Garcia and the children also do not have a stable place to live and face  
24 significant financial and housing insecurity that only exacerbates the longer she and Petitioner are  
25 apart. Petitioner's detention has no end in sight and all of these harms continue to compound.

26 **D. Repatriation to Cuba: Background**

27 45. As noted, Cuba refused to accept Petitioner in 2020, and it remains unwilling to

1 accept him today. *See* Welsh Decl., Ex. 7.

2 46. Historically, the Cuban government has refused to issue travel documents to any  
3 Cubans residing in the United States with final orders of removal due to strained diplomatic  
4 relations. *See* Lindsay Daniels, *The End of Special Treatment for Cubans in the U.S. Immigration*  
5 *System: Consequences and Solutions for Cubans with Final Orders of Removal*, 122 DICK. L.  
6 REV. 707, 718 (2018), available at <https://insight.dickinsonlaw.psu.edu/dlr/vol122/iss2/8/>.

7 47. Cuba has also been extremely reluctant to accept deportees from the U.S. with  
8 criminal records. *See* Claire Healy and Syrah Ortiz-Blanes, *Cubans with Criminal Records in the*  
9 *U.S. are being Quietly Deported to Mexico*, MIAMI HERALD (Oct. 21, 2025),  
10 <https://www.miamiherald.com/news/local/immigration/article312432237.html> (Cuba's  
11 "longtime practice has been to reject deportees who have been convicted of certain crimes."); *see*  
12 *also* Lizette Alvarez & Kristin Hussey, *Cubans Convicted in the U.S. Face New Fears of*  
13 *Deportation*, N.Y. TIMES (Jan. 18, 2015) [https://www.nytimes.com/2015/01/19/us/cubans-](https://www.nytimes.com/2015/01/19/us/cubans-convicted-in-the-us-face-new-fears-of-deportation.html)  
14 [convicted-in-the-us-face-new-fears-of-deportation.html](https://www.nytimes.com/2015/01/19/us/cubans-convicted-in-the-us-face-new-fears-of-deportation.html) ("Other countries also make it difficult  
15 for the United States to deport convicted criminals, but Cuba is one of 'very few' that block most  
16 deportation orders.").

17 48. While political developments in recent years have increased the number of  
18 successful deportations to Cuba, the number of removals effected continues to remain miniscule  
19 compared to the number of outstanding removal orders. *See supra* Daniels, *The End of Special*  
20 *Treatment*, at 718 ("There are at least 34,000 Cubans with final orders of removal in the United  
21 States, due in large part to criminal convictions.").

22 49. In 2025, ICE reported the arrest of 419 Cuban citizens. U.S. Immigration and  
23 Customs Enforcement Administrative Arrest Statistics, <http://www.ice.gov/statistics> (last visited  
24 April 13, 2026). Within the same fiscal year, only 138 Cubans were removed. *Id.* Of these, only  
25 32 Cubans were listed as having criminal convictions. *Id.*

26 50. There is no indication that the Cuban government's policy of refusing to accept  
27 detainees with criminal records has materially changed even as the U.S. government has begun

1 re-arresting detainees who were previously released under orders of supervision.

2 **E. ICE's Third Country Removal Policy: Background**

3 51. Within the last year, ICE has been removing hundreds of Cuban immigrants to third  
 4 countries. *See, e.g., supra* Healy and Ortiz-Blanes, *Cubans with Criminal Records in the U.S. are*  
 5 *being Quietly Deported to Mexico*; Gerald Imray, Michelle Gumedde, and Rebecca Santana, *US*  
 6 *deports immigrants from Jamaica, Cuba and other countries to the African kingdom of Eswatini*,  
 7 AP NEWS (July 16, 2025), [https://apnews.com/article/deportees-trump-africa-eswatini-migrant-](https://apnews.com/article/deportees-trump-africa-eswatini-migrant-africa-8d10c5a1de7ba50cbea9712b6b5fbfbc)  
 8 [africa-8d10c5a1de7ba50cbea9712b6b5fbfbc](https://apnews.com/article/deportees-trump-africa-eswatini-migrant-africa-8d10c5a1de7ba50cbea9712b6b5fbfbc).

9 52. On information and belief as set forth below, since January 2025, Respondents have  
 10 developed and implemented a policy and practice of removing individuals to third countries,  
 11 without first following the procedures in the INA for designation and removal to a third country  
 12 and without providing fair notice and an opportunity to contest the removal in immigration court.

13 53. Respondents reportedly have negotiated with at least 58 countries to accept  
 14 deportees from other nations. On June 25, 2025, the New York Times reported that seven  
 15 countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had  
 16 agreed to accept deportees who are not their own citizens. Edward Wong, Zolan Kanno-Youngs,  
 17 Hamed Aleaziz and Minh Kim, *Inside the Global Deal-Making Behind Trump's Mass*  
 18 *Deportations*, N.Y. TIMES (June 25, 2025), [https://www.nytimes.com/2025/06/25/us/politics/](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html)  
 19 [trump-immigrants-deportations.html](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html). ICE has also carried out highly publicized third country  
 20 deportations to South Sudan, Eswatini, Rwanda, Uganda, and Ghana. *See id.*

21 54. On July 9, 2025, ICE issued an internal memorandum stating that when seeking to  
 22 remove an individual to a country not designated on that person's removal order, ICE may deport  
 23 that person without any procedures for notice or an opportunity to be heard if the State Department  
 24 confirms that it has received diplomatic assurances that individuals will not be persecuted or  
 25 tortured. *See* Welsh Decl., Ex. 1. If no diplomatic assurances are received, the ICE memo instructs  
 26 officers to serve on the individual a Notice of Removal that includes the intended country of  
 27 removal. *Id.* It instructs officers not to ask whether the individual is afraid of removal to that

country. *Id.* 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.” *Id.*

55. 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.” *Id.* at 2. 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 (CAT). *Id.* “USCIS will generally screen ... within 24 hours.” *Id.* If USCIS determines that the noncitizen does not meet the standard, the individual will be removed. *Id.* If USCIS determines that the noncitizen has met the standard, then the policy directs ICE either to 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. *Id.*

56. The government has now carried out numerous third country removals without notice or meaningful opportunity to contact family or counsel or make any meaningful fear-based claim. For instance, eight men who had all feared removal to South Sudan were nevertheless deported there—even though only one of them was a South Sudanese national. *See* Mattathias Schwartz and Hamed Aleaziz, *U.S. Turns Eight Migrants Over to South Sudan, Ending Weeks of Legal Limbo*, N.Y. TIMES (July 5, 2025), <https://www.nytimes.com/2025/07/05/us/politics/migrants-djibouti-south-sudan.html>. Those eight men were given less than 24 hours’ notice of their removal, *id.*, and then were held by ICE for six weeks on a U.S. military base in Djibouti before their final removal to South Sudan; *see* Rachel Hagan and Farouk Chothia, *US deports eight men to South Sudan after legal battle*, BBC NEWS (July 6, 2025), <https://www.bbc.com/news/articles/c80p315krr4o>. And in a recent third country removal to

1 Ghana, individuals were rounded up by ICE officials in the middle of the night, shackled, forced  
 2 into straightjackets, and put on a U.S. military cargo plane without any notice. Gisela Salmon,  
 3 *Lawsuit says US held West African migrants in straitjackets for 16 hours on flight to Ghana*, AP  
 4 NEWS (Sep. 12, 2025), [https://www.courthousenews.com/lawsuit-says-us-held-west-african-](https://www.courthousenews.com/lawsuit-says-us-held-west-african-migrants-in-straitjackets-for-16-hours-on-flight-to-ghana/)  
 5 [migrants-in-straitjackets-for-16-hours-on-flight-to-ghana/](https://www.courthousenews.com/lawsuit-says-us-held-west-african-migrants-in-straitjackets-for-16-hours-on-flight-to-ghana/). They were reportedly not informed  
 6 where they were being taken until the plane was already in flight. *Id.*

7 57. Based on Cuba's refusal to accept Petitioner, and ICE's instruction that Petitioner  
 8 "look into" third countries including Colombia, *see* Welsh Decl., Ex. 2, Respondents are likely  
 9 someday to seek third country removal. Petitioner fears removal to a third country like Colombia,  
 10 where he may face violence and persecution.

## 11 V. LEGAL FRAMEWORK AND ARGUMENT

12 58. Petitioner seeks a writ of habeas corpus requiring his immediate release from  
 13 NWIPC, where he has been detained by ICE since February in plain violation of the United States  
 14 Constitution and other federal law, 28 U.S.C. § 2241. ICE's sudden re-detention of Petitioner  
 15 violates core principles of due process, contravenes governing ICE regulations, and has imposed  
 16 detrimental harm on Petitioner and his family. This Court should order Petitioner's immediate  
 17 release and other protective measures to prevent future harm.

### 18 A. Petitioner's Re-Detention Violates Substantive and Procedural Due Process

19 59. ICE's re-detention of Petitioner runs head-first into the Due Process Clause. The  
 20 Fifth Amendment's Due Process Clause forbids the government from depriving any person,  
 21 including noncitizens, of "life, liberty, or property, without due process of law." U.S. Const.  
 22 Amend. V; *see also Zadvydas*, 533 U.S. at 693 (due process extends to "all 'persons' within the  
 23 United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary,  
 24 or permanent"). "Freedom from imprisonment—from government custody, detention, or other  
 25 forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."  
 26 *Zadvydas*, 533 U.S. at 690. Here, Respondents violated these core tenets in at least two ways: by  
 27 re-detaining Petitioner (1) without lawful justification and indefinitely, *i.e.*, without establishing

1 that his removal is significantly likely in the reasonably foreseeable future, and (2) without  
 2 affording Petitioner pre-detention notice or a hearing. Each violation independently warrants  
 3 Petitioner's immediate release from ICE custody.

4 **1. Petitioner's Re-Detention Is Unjustified and Unconstitutionally**  
 5 **Indefinite Under *Zadvydas***

6 60. Petitioner's re-detention violates substantive due process because Respondents  
 7 have not and cannot demonstrate that Petitioner is a flight risk or a danger to the community, and  
 8 because Petitioner's removal is not significantly likely in the reasonably foreseeable future.

9 61. In general, substantive due process "forbids the government [from] infring[ing]  
 10 certain 'fundamental' liberty interests at all, no matter what process is provided, unless the  
 11 infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S.  
 12 292, 302 (1993). One such fundamental liberty interest is in "freedom from government custody,"  
 13 which "'lies at the heart of the liberty' protected by the Due Process Clause." *Zapata v. Kaiser*,  
 14 801 F. Supp. 3d 919, 939 (N.D. Cal. 2025) (quoting *Zadvydas*, 533 U.S. at 690). Thus,  
 15 government detention violates substantive due process "unless the detention is ordered in a  
 16 criminal proceeding with adequate procedural protections, or, in certain special and 'narrow'  
 17 nonpunitive 'circumstances,' where a special justification, such as harm-threatening mental  
 18 illness, outweighs the 'individual's constitutionally protected interest in avoiding physical  
 19 restraint.'" *Zadvydas*, 533 U.S. at 690 (citations omitted). In the context of civil immigration  
 20 proceedings, the Supreme Court has recognized only two permissible purposes justifying a  
 21 noncitizen's detention: to prevent flight and to protect the community from danger. *Id.* at 690-91.

22 62. As a threshold matter, Petitioner's re-detention is plainly unconstitutional because  
 23 it has no permissible justification. Petitioner is neither a flight risk nor a danger to his community.  
 24 *See id.* Far from it. Petitioner has established firm roots in the United States since his entry in  
 25 2012. Petitioner has been married to his wife, who is a U.S. citizen, for the past five years, and  
 26 the two were in a serious, long-term relationship for years prior to their marriage. Together,  
 27 Petitioner and Ms. Garcia have raised eight children—six stepchildren and two biological

1 children. Petitioner is an important father figure for all eight children, all of whom are also U.S.  
2 citizens. Prior to his re-detention, Petitioner would bring the children to school and pick them up  
3 after, as well as help the children with homework and cook dinner for the family. The children  
4 also value Petitioner's guidance and, before his re-detention, would routinely seek his advice.

5 63. Since his release from ICE detention in September 2020, Petitioner and his spouse  
6 have also been working tirelessly to help manage their daughter's serious, chronic health  
7 condition. Almost immediately after Petitioner's release in 2020, Ms. Garcia quit her job so she  
8 could support their young daughter in the hospital in connection with a bone marrow transplant,  
9 while Petitioner became the family's sole source of income and assumed primary caretaking  
10 responsibilities for the other children—all while still assisting with his daughter's medical care.  
11 Even beyond his role as a husband and father, Petitioner has also established business ties in the  
12 United States. Just last year, he and his wife opened a family-run business together, through which  
13 the two operate a car carrier service. In short, Petitioner's conduct is consistent with that of a  
14 loving and engaged parent of eight children and a productive member of society, and categorically  
15 incompatible with flight risk.

16 64. To the extent Respondents may point to Petitioner's presence at the U.S.-Canadian  
17 border as evidence of flight risk, the circumstances of his attempted entry to Canada indicate the  
18 exact opposite. The flight risk factor queries whether detention is necessary to "ensur[e] the  
19 appearance of [noncitizens] at future immigration proceedings." *Id.* at 690 (internal quotation  
20 marks omitted). Petitioner, however, had no intention of avoiding his immigration proceedings in  
21 making his trip to Canada; the purpose of his trip was to seek asylum, at the express  
22 encouragement and with the permission of ICE. Petitioner took great care to follow the proper  
23 procedures and protocols as explained to him by his ICE officer, every step of the way, and  
24 engaged an attorney to assist with this.

25 65. Petitioner first received a letter from his ICE officer stating that Petitioner was  
26 required to leave the United States by February 16th. He then confirmed with that officer multiple  
27 times that he had permission to seek asylum in Canada, and the officer never once raised any

1 concerns. And even when Petitioner arrived at the U.S.-Canada border, he presented himself  
2 directly to border authorities without hesitation. Together, these facts reflect Petitioner's desire to  
3 comply with ICE's instructions and not the conduct of someone seeking to evade immigration  
4 proceedings. *Cf. Uppal v. Noem*, No. 26-cv-00711, 2026 WL 864682, at \*3 (W.D. Wash. Mar.  
5 30, 2026) (rejecting argument that petitioner's arrest at the U.S.-Canadian border 'provide[d]  
6 overwhelming objective evidence of flight risk,' noting there was no evidence as to why he was  
7 there "much less that he was engaging in any activity requiring immediate detention").

8 66. Moreover, since his release from both BOP and ICE custody, Petitioner has lived a  
9 law-abiding life and has been fully compliant with his conditions of supervision, including  
10 appearing for his regular check-ins. Petitioner even received a letter confirming his satisfactory  
11 completion of BOP supervision on March 17, 2025, and has not had any issue complying with  
12 ICE supervision. In other words, there is no basis for Respondents to deem Petitioner a danger to  
13 the community, and thus no permissible justification for Respondents to re-detain Petitioner. *See*  
14 *Zadvydas*, 533 U.S. at 690-91.

15 67. In addition to the baseless nature of Petitioner's re-detention, his continued  
16 detention also violates substantive due process because "there is no significant likelihood of  
17 [Petitioner's] removal in the reasonably foreseeable future." *Id.* at 701. In general, the INA  
18 permits the government to detain noncitizens for 90 days after their removal orders become final  
19 in order to effectuate removal. *See* 8 U.S.C. § 1231(a)(2). With respect to noncitizens who have  
20 been ordered removed following a criminal conviction, as is the case here, the INA also permits  
21 detention beyond the initial 90-day removal period. *Id.* § 1231(a)(6). However, the INA "does not  
22 permit indefinite detention," and detention under § 1231(a)(6) must terminate if the noncitizen is  
23 not removed from the United States within a reasonable time. *Zadvydas*, 533 U.S. at 689; *see also*  
24 *Hambarsonpour v. Bondi*, No. C25-1802, 2025 WL 3251155, at \*2 (W.D. Wash. Nov. 21, 2025)  
25 (Martinez, J.) ("[T]he INA does not authorize 'indefinite, perhaps permanent, detention' of  
26 noncitizens subject to final orders of removal." (citation omitted)).

68. As the U.S. Supreme Court observed in *Zadvydas*, “serious constitutional problem[s] would] aris[e]” if § 1231(a)(6) “permit[ted] an indefinite, perhaps permanent, deprivation of human liberty,” 533 U.S. at 692. Applying substantive due process principles, the *Zadvydas* Court found that § 1231(a)(6) “implicitly limits an alien’s detention to a period reasonably necessary to bring about that alien’s removal.” *Id.* at 679. “[F]or the sake of uniform administration in the federal courts,” the Court recognized a six-month period within which detention under § 1231(a)(6) would be considered presumptively reasonable. *Id.* at 701.

69. More fundamentally, however, the *Zadvydas* Court held that “once removal is no longer reasonably foreseeable, continued detention is no longer authorized” under § 1231(a)(6). *Id.* at 699. In other words, § 1231(a)(6) “does not permit detention beyond the initial 90-day removal period when removal is not reasonably foreseeable.” *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (citing *Zadvydas*, 533 U.S. at 699-700). Notwithstanding the presumptively reasonable detention period of six months, the Court “left the lower courts to determine whether detention has exceed[ed] a period reasonably necessary to secure removal” in individual cases.” *Trinh*, 466 F. Supp. 3d at 1093. Accordingly, “the six-month presumption in *Zadvydas* is rebuttable and [] does not foreclose claims challenging detention less than six months.” *Tumasov v. Doe I*, No. 26-cv-590, 2026 WL 458146, at \*3 (S.D. Cal. Feb. 18, 2026). Instead, “the presumption scheme merely suggests that the burden the detainee must carry within the first six months of postorder detention is a heavier one than after six months has elapsed.” *Wana v. Bondi*, No. 25-cv-02321, 2025 WL 3628634, at \*3 (W.D. Wash. Dec. 15, 2025) (citation omitted).

70. Petitioner undoubtedly meets this heavier burden, and thus necessarily meets the lower burden too.<sup>3</sup> For one, Petitioner’s removal is not reasonably foreseeable because his country

<sup>3</sup> As noted, *see supra* ¶ 24 n.2, Petitioner entered immigration detention for the first time on March 11, 2020 and his removal order became final on June 17, 2020. Welsh Decl., Ex. 2. He was then released from ICE custody on September 15, 2020, after ICE could not repatriate him to Cuba. Petitioner’s recent re-detention then began on February 17, 2026. As of the date of this Petition, (continued...)

of origin refuses to accept him back. Respondents were unable to remove Petitioner to Cuba in 2020, and over five years later, the circumstances have not changed. In fact, Cuba confirmed in writing in October 2025 that Petitioner is not a registered Cuban citizen, does not appear in Cuban immigration records, and thus Cuba has not and will not welcome his return. Welsh Decl., Ex. 6. Accordingly, the likelihood that ICE will ever obtain travel documents and successfully remove Petitioner to Cuba is vanishingly small at best, if not nonexistent. *See Wana*, 2025 WL 3628634, at \*3 (though detainee's detention had only lasted slightly more than four months, habeas relief was nevertheless warranted because, among other reasons, ICE had "made no effort to apply for or obtain travel documents prior to taking Mr. Wana into custody"); *see also, e.g., Gelabet v. Immigr. & Customs Enft Field Off. Dir.*, No. C26-326, 2026 WL 621436, at \*2 (W.D. Wash. Mar. 5, 2026) (Martinez, J.) (removal was not reasonably foreseeable because, among other things, "Cuba [had] denied accepting Petitioner already"); *Ndandu v. Noem*, --- F. Supp. 3d ---, 2026 WL 25848, at \*4 (S.D. Cal. Jan. 5, 2026) (granting habeas relief where petitioner was detained for less than six months because he could not be moved to his country of origin); *Elshourbagy*, 2025 WL 3718993, at \*4 (habeas relief warranted where Petitioner could not be removed to his country of origin).

71. Nor is there a likelihood Petitioner will be removed to a third country in the reasonably foreseeable future. Setting aside the grave constitutional concerns implicated by third country removals, *see infra* Section V(C)(2), there is nothing to suggest that any third country is readily available to welcome Petitioner at the present time. ICE has not presented Petitioner with any travel documents from a third country, and Petitioner is unaware of any efforts ICE has made to obtain such documents at all. At most, ICE has indicated that it is *considering* removing

Petitioner has been in ICE detention for nearly five months since the date his removal order became final (and nearly eight months in total). *See Phong Thanh Nguyen v. Scott*, 796 F. Supp. 3d 703, 721-22 (W.D. Wash. 2025) (the *Zadvydas* presumptively reasonable six-month period of detention is cumulative, not consecutive); *see also, e.g., Elshourbagy v. Bondi*, --- F. Supp. 3d ---, 2025 WL 3718993, at \*4 (W.D. Wash. Dec. 23, 2025) (calculating time under *Zadvydas* from the date petitioner's removal order became final).

1 Petitioner to a third country and provided him with paperwork instructing Petitioner himself to  
2 contact Costa Rica, Brazil, and/or Colombia "to see if they will accept you into their country."  
3 Welsh Decl., Ex. 2. But these instructions, standing alone, fall short of demonstrating a  
4 "significant likelihood" of Petitioner's removal so as to justify his continued detention for an  
5 indeterminate and potentially endless period of time. *Zadvydas*, 533 U.S. at 701; *see also Zheng*  
6 *v. ICE Field Off. Director*, No. 25-cv-02483, 2026 WL 850531, at \*3 (W.D. Wash. Mar. 27, 2026)  
7 (granting habeas petition filed within the presumptively reasonable six-month detention period  
8 where petitioner was handed a list of countries that generally welcome their own citizens, but ICE  
9 had otherwise failed to "properly start[] the required process for third country removal"). In any  
10 event, Petitioner has no ties to Costa Rica, Brazil, or Colombia. *See Elshourbagy*, 2025 WL  
11 3718993, at \*4 (granting habeas relief where detainee "d[id] not have citizenship or significant  
12 ties to any other country"); And there is no indication that ICE has identified any other country  
13 that would accept Petitioner. *See Tumasov*, 2026 WL 458146, at \*3 (granting habeas relief where  
14 "ICE ha[d] not yet identified any country that would accept Petitioner").

15 72. In sum, ICE's re-detention of Petitioner violates substantive due process because  
16 Petitioner is neither a flight risk nor a danger to his community, and there is no significant  
17 likelihood of removal in the reasonably foreseeable future. Because Petitioner's re-detention is  
18 baseless and unconstitutionally indefinite under *Zadvydas*, the Court should order Petitioner's  
19 immediate release from ICE custody. *See, e.g., Elshourbagy*, 2025 WL 3718993, at \*5 (petitioner  
20 entitled to immediate release under *Zadvydas*); *Hambarsonpour*, 2025 WL 3251155, at \*5  
21 (Martinez, J.) (same); *Hernandez v. Bondi*, No. 25-cv-02020, 2026 WL 350829, at \*4, \*8 (E.D.  
22 Cal. Feb. 9, 2026) (ordering petitioner's immediate release even where her total post-removal  
23 order period of detention was less than six months, because the circumstances of the most recent  
24 detention were nevertheless unreasonable).

2. The Government Failed to Afford Petitioner Pre-Deprivation Notice and a Hearing

73. The Court should order Petitioner's immediate release for the additional reason that Respondents failed to afford him pre-detention notice or a hearing, and therefore deprived Petitioner of the procedural protections he is constitutionally due.

74. The threshold question for any procedural due process claim is whether a protected liberty interest exists. *See Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). Once it is clear that such an interest exists, courts must then assess "whether the procedures attendant upon that [interest] were constitutionally sufficient." *Id.* "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey v. Brewer*, 408 U.S. 471, 481-82 (1972)). Courts make this assessment using the flexible balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *see also* *Yukseloglu v. Bondi*, No. C26-467, 2026 WL 617367, at \*2 (W.D. Wash. Mar. 5, 2026) (Martinez, J.) (applying *Mathews* to procedural due process claim in the immigration detention context). *Mathews* requires consideration of three factors:

[F]irst, 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 probative 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 requirements would entail.

*Haygood*, 769 F.2d at 1357 (citing *Mathews*, 424 U.S. at 335). Applying this framework, numerous courts in this District have held that procedural due process requires a *pre*-detention hearing before the government re-detains a noncitizen who has been on conditional release from immigration custody. *See, e.g., Francois v. Wamsley*, No. C25-2122, 2025 WL 3496557, at \*4 (W.D. Wash. Dec. 5, 2025) (Martinez, J.); *E.A.-T.B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025)

(Evanson, J.); *Gonzalez v. Bostock*, 808 F. Supp. 3d 1189, 1203 (W.D. Wash. Oct. 7, 2025) (Whitehead, J.).

75. Here, ICE re-detained Petitioner without prior notice or a hearing in plain violation of his procedural due process rights. To begin, it is well-established that a person who has been released from custody has a protected liberty interest in his continued freedom—even if his release is conditional or discretionary; *Morrissey*, 408 U.S. at 481-82 (a parolee relies “on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions”). That liberty interest extends to the immigration detention context. *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (“Just as people, on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond.”); *Gonzalez*, 808 F. Supp. 3d at 1202 (noncitizen detainee demonstrated protected liberty interest because “[f]reedom from imprisonment ... lies at the heart of the liberty [the Due Process Clause] protects” (quoting *Zadvydas*, 533 U.S. at 690)). There can be no dispute that Petitioner—who was released from ICE custody under an Order of Supervision over five years ago—has a protected liberty interest in his continued freedom from detention.

76. Turning to the balancing test, all three *Mathews* factors strongly favor Petitioner and demand pre-detention notice and a hearing. First, Petitioner’s interest in being free from detention is “the most elemental of liberty interests.” *E.A.-T.B.*, 795 F. Supp. 3d at 1321, 1324 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting habeas petition and ordering immediate release with no re-detention absent “an immigration court hearing ... held (with adequate notice) to determine whether detention is appropriate”). Because an individual’s liberty interest grows the longer he has been released, *Morrissey*, 408 U.S. at 482, here Petitioner’s liberty interests are profound. Since his release from ICE custody in September 2020, Petitioner has developed deep community ties and led a productive and law-abiding life: he married a U.S. citizen; he has raised six step-children and two biological children (all of whom are U.S. citizens); he has been gainfully employed and even started his own family-run company; and after an acute

1 on-the-job injury prevented him from continuing to work, he served as the primary caretaker of  
2 his minor daughter, who suffers from a severe and chronic condition that requires intensive  
3 medical care. *See Torres v. Hermosillo*, No. 25-cv-02687, 2026 WL 145715, at \*7 (W.D. Wash.  
4 Jan. 20, 2026) (noncitizen had “valuable” liberty interest in continued release where she had been  
5 free for six years and was “taking care of her ill and disabled mother and obtaining work” during  
6 that time). Petitioner also dutifully adhered to ICE’s conditions of supervision—he attended all  
7 ICE check-ins, and he sought and obtained his ICE officer’s permission to leave Florida in order  
8 to seek asylum in Canada. Petitioner has built a life and a family on the “implicit promise” that  
9 they would not be taken away unless he failed to “live up” to the conditions of his ICE supervision.  
10 *Morrissey*, 408 U.S. at 482. At no point has Petitioner failed to “live up” to the conditions of his  
11 ICE supervision—he has fully complied with and even exceeded them. *See Torres*, 2026 WL  
12 145715, at \*7.

13 77. The second *Mathews* factor also weighs sharply in Petitioner’s favor. Where, as  
14 here, the petitioner was not provided with a pre-detention hearing, the risk of an erroneous  
15 deprivation is high “because neither the government nor [Petitioner] has had an opportunity to  
16 determine whether there is any valid basis for [his] detention.” *Pinchi v. Noem*, 792 F. Supp. 3d  
17 1025, 1035 (N.D. Cal. 2025) (citation omitted). Conversely, a pre-detention hearing significantly  
18 decreases that risk by requiring the government to establish before a neutral arbiter with clear and  
19 convincing evidence that Petitioner’s re-detention is necessary to prevent flight or danger to the  
20 community. *Id.* at 1035, 1038; *see also E.A. T.B.*, 795 F. Supp. 3d at 1322 (even if the government  
21 “believe[s] it has a valid reason to detain Petitioner,” “it would not necessarily follow that  
22 Petitioner can be detained for those violations without a hearing”).

23 78. The need for a hearing is especially clear in this case. Had Petitioner been afforded  
24 the opportunity to appear before a neutral decision maker, he would have shown that his  
25 circumstances foreclose any inference of flight risk or danger. Indeed, Petitioner was fully  
26 compliant with his Order of Supervision and lived freely in his community without incident for  
27 over five years. When Petitioner began contemplating asylum in Canada at the encouragement of

1 ICE itself, he retained an immigration lawyer to ensure compliance with applicable immigration  
 2 law, all while keeping his ICE officer fully apprised of his family's developing plans. Before  
 3 traveling to the border, Petitioner obtained his ICE officer's explicit blessing and encouragement  
 4 to do so; the officer not only removed Petitioner's ankle monitor to allow for air travel but  
 5 provided him with a letter stating Petitioner was *required* to leave the United States. Petitioner  
 6 then readily presented himself to Canadian border officials, only to be turned over to ICE and  
 7 detained. Far from being a flight risk or danger, Petitioner simply was trying to comply with ICE's  
 8 instructions to find a new country where he could re-locate his family. At every turn, Petitioner  
 9 acted with candor, cooperation, and an honest desire to do the right thing. Petitioner was entitled  
 10 to explain as much to a neutral decision maker before he was stripped of his continued freedom.  
 11 By any account, the risk of erroneous deprivation absent a pre-detention hearing is manifest here.  
 12 *See Z.A. v. Hermosillo*, No. C26-144, 2026 WL 538455, at \*1, \*3 (W.D. Wash. Feb. 26, 2026)  
 13 (Martinez, J.) (erroneous risk of deprivation "high" where petitioner was picked up by Canadian  
 14 immigration officials and then re-detained by ICE without first being "provided with an  
 15 opportunity before a neutral adjudicator to explain his presence at the border"); *Kirykovich v.*  
 16 *Hernandez*, No. 26-cv-00695, 2026 WL 890459, at \*3 (W.D. Wash. Apr. 1, 2026) (parties'  
 17 "divergent accounts" of the events surrounding petitioner's re-detention "illustrate precisely why  
 18 a pre-deprivation hearing before a neutral arbiter is necessary").

19 79. The final *Mathews* factor likewise favors Petitioner. Courts in this District  
 20 consistently have recognized that the government's "interest in detaining [a] petitioner without a  
 21 hearing is low"—especially when weighed against the "minimal" costs imposed by a pre-  
 22 detention hearing in immigration court, where custody hearings are "routine." *Tzafir v. Bondi*,  
 23 No. 25-cv-02067, 2026 WL 74088, at \*4 (W.D. Wash. Jan. 9, 2026) (Chun, J.) (citations omitted);  
 24 *see also, e.g., Acosta-Ginori v. Bondi*, No. 25-cv-02649, 2026 WL 221509, at \*5 (W.D. Wash.  
 25 Jan. 28, 2026) (Jones, J.). Even where the government mounts "clear and convincing evidence  
 26 that [Petitioner's] detention is necessary to prevent danger to the community or flight," then "the  
 27 only potential injury the government faces is a short delay in detaining" Petitioner. *Pinchi*, 792 F.

Supp. 3d at 1037-38; *see also Uppal*, 2026 WL 864682, at \*3 (government's interest in "border security, preventing abscondence, and ensuring appearance at removal proceedings" not threatened by a pre-deprivation hearing where Petitioner had long complied with his conditions of supervision, attended all ICE-check-ins, and "ultimately surrendered to [Canadian] border patrol agents"). The human suffering inherent in unlawful imprisonment vastly outweighs the short delay to Respondents. *Pinchi*, 792 F. Supp. 3d at 1038; *see also E.A. T.-B.*, 795 F. Supp. 3d at 1324 ("[A]lthough it would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing . . . before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.").

80. In sum, ICE violated Petitioner's procedural due process rights by revoking his release and re-detaining him without any pre-deprivation notice or an opportunity to be heard by a neutral adjudicator. This Court should order Petitioner's immediate release and prohibit any re-detention without first affording him notice and a hearing before an Immigration Judge.

**B. The Government's Re-Detention of Petitioner Violates ICE's Own Regulations**

81. Petitioner's immediate release is also warranted for the independent reason that ICE failed to follow its own regulations by re-detaining Petitioner without justification and by skipping over required procedures upon doing so.

82. It is axiomatic that government agencies are required to follow their own regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 267-68 (1954); *see also Church of Scientology of Cal. v. United States*, 920 F.2d 1481, 1487 (9th Cir. 1990) ("Pursuant to the *Accardi* doctrine, an administrative agency is required to adhere to its own internal operating procedures."); *Wallace v. Christensen*, 802 F.2d 1539, 1552 n.8 (9th Cir. 1986) (an agency is "bound by its own regulations so long as they remain in force"). As such, "[m]ultiple courts in this district and others have determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release is warranted." *Hasson v. Lyons*, No. C26-0373, 2026 WL 593087, at \*4 (W.D. Wash. Mar. 3, 2026) (collecting cases).

83. Two regulations govern release and re-detention following a final order of removal. See 8 C.F.R. §§ 241.13(i), 241.4(i); see also *Eduardo V.M. v. Warden of Golden State Annex ICE Det. Facility*, No. 26-cv-00017, 2026 WL 818052, at \*4 (E.D. Cal. Mar. 25, 2026) (“When a noncitizen has been released from immigration detention, certain ICE regulations govern how and when the agency may revoke that release and re-detain the noncitizen.”). These regulations provide that ICE may only re-detain a noncitizen for specific reasons and following specific procedures.

84. The first, 8 C.F.R. § 241.13(i), permits ICE to revoke a noncitizen’s release if (1) they violate the conditions of their release, or (2) “on account of changed circumstances,” ICE determines there is a significant likelihood the noncitizen will be removed in the reasonably foreseeable future. However, “[u]pon revocation [of release],” ICE must notify the noncitizen “of the reasons for revocation” and provide “an initial informal interview promptly after [the noncitizen’s] return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation.” *Id.* § 241.13(i)(3).

85. The second, 8 C.F.R. § 241.4(i), permits ICE to detain noncitizens who violate their conditions of release. *Id.* § 241.4(i)(1). But again, “[u]pon revocation,” ICE must “notify the noncitizen] of the reasons for revocation” and then conduct “an initial information interview promptly after [the noncitizen’s] return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification. *Id.* Importantly, § 241.4(i)(2) mandates that the revocation be ordered by the Executive Associate Commissioner, or the district director when “circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner.”

86. Here, Respondents have failed to follow either section 241.13(i) or section 241.4(i). For one, Petitioner has faithfully and dutifully complied with the requirements of his supervision since his release from immigration custody in 2020. Even when planning his trip to Canada, Petitioner followed the procedures as explained by his ICE officer. And there are no “changed circumstances” that make it significantly likely Petitioner will be removed in the foreseeable

1 future. *See supra* Section V(A)(1). Cuba refused to accept him in 2020, and it continues to do so  
2 today. *See* Welsh Decl., Ex. 6. Accordingly, none of the circumstances that ordinarily would  
3 justify revocation of Petitioner's release are present here. *See* 8 C.F.R. §§ 241.13(i)(1),  
4 241.4(l)(1).

5 87. Moreover, ICE failed to comply with its own procedural requirements. To this day,  
6 Petitioner has not received an explanation for his revocation, nor has Petitioner received a  
7 meaningful opportunity to respond via a prompt informal interview. Instead, Respondents delayed  
8 any interaction with Petitioner until March 26, 2026—that is, *over a month* after Petitioner was  
9 first re-detained. And even then, during this interaction, the ICE officer did not explain to  
10 Petitioner why he was re-detained, let alone give Petitioner an opportunity to speak or otherwise  
11 explain himself. To the extent Respondents claim this interaction satisfies the requirement for an  
12 informal interview, the purported interview was “perfunctory and incomplete.” *Alfonso v. Bondi*,  
13 No. 25-cv-02748, 2026 WL 395326, at \*5-6 (W.D. Wash. Feb. 12, 2026). It therefore failed to  
14 satisfy ICE's regulations, particularly where Petitioner did not have an opportunity to speak and  
15 did not see his actual Notice of Revocation until the next day. *See id.* (holding ICE failed to  
16 follow its own regulations where petitioner had less than 15 seconds to view his notice, his  
17 informal interview lasted less than a minute, and ICE officer recorded a mere 24 words of  
18 petitioner's purported response).

19 88. Finally, Respondents have not specified or otherwise indicated whether the  
20 decision to revoke Petitioner's release was made by an authorized person pursuant to 8 C.F.R.  
21 § 241.4(l)(2). Failure to establish that revocation was ordered by an authorized person is sufficient  
22 to warrant release alone. *See Nguyen v. Noem*, No. 26-cv-00963, 2026 WL 790881, at \*6 (C.D.  
23 Cal. Mar. 16, 2026) (“Here, Respondents do not specify who made the decision to revoke  
24 Petitioner's release. Therefore, to the extent Petitioner's revocation was a discretionary act  
25 pursuant to Section 241.4, Respondents do not establish the decision was issued by a properly  
26 authorized official.”).

89. Accordingly, ICE's failures to follow its own regulations independently require Petitioner's immediate release from custody. *See Alfonso*, 2026 WL 395326, at \*6.

**C. Injunctive Relief is Warranted**

90. In addition to Petitioner's release from his unlawful and indefinite detention, Petitioner seeks injunctive relief to protect from future harms stemming from further re-detention and the threat of third country removal.

**1. The Court Should Enjoin Petitioner's Future Re-Detention Absent Adequate Procedural Safeguards.**

91. The Court should enter an order prohibiting Respondents from re-detaining Petitioner without first securing a travel document and departure flight to Cuba, or providing Petitioner with pre-detention notice and a hearing wherein Respondents establish a lawful basis to revoke Petitioner's supervised release.

92. A petitioner seeking a permanent injunction must make a four-part showing (the "eBay factors"): "(1) that they have suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the [parties], a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." *Elshourbagy*, 2025 WL 3718993, at \*2 (quoting *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006)) (granting habeas petition and request for permanent injunction related to third country removal). Petitioner readily meets this standard.

93. *First*, "[i]t is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1000 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)) (affirming preliminary injunction related to unlawful immigration detention policy). Petitioner already has been irreparably injured by his unlawful re-detention in violation of both his substantive and procedural due process rights (*see supra* Section V(A)), and he is likely to suffer that injury again in the event he is re-detained in the future. *See Medero v. Hermosillo*, No. C26-0568, 2026 WL 891355, at \*4 (W.D. Wash.

Apr. 1, 2026) (harm likely to recur because “the Government has already detained [petitioner] without due process,” and “[d]espite this court’s many orders holding that the Government’s conduct in revoking parole and re-detaining noncitizens without due process is unconstitutional, the conduct has continued”); *Francois*, 2025 WL 3063251, at \*5 (Martinez, J.) (irreparable harm shown based on deprivation of noncitizen detainee’s due process rights). **Second**, courts widely recognize that “monetary damages are inadequate to compensate” a deprivation of liberty. *Medero*, 2026 WL 891355, at \*4; *see also, e.g., Elshourbagy*, 2025 WL 3718993, at \*9. **Third**, “requiring the Government to follow constitutional procedures imposes no undue hardship,” *Palacios v. Hermosillo*, No. 26-cv-491, 2026 WL 686138, at \*10 (W.D. Wash. Mar. 11, 2026), and **fourth**, “it is always in the public interest to prevent the violation of a party’s constitutional rights,” *Riley’s Am. Heritage Farms v. Elsasser*, 32 F.4th 707, 731 (9th Cir. 2022) (citation omitted).

94. All four *eBay* factors favor Petitioner and demand injunctive relief in this case in order to protect against the harms of further re-detention. Accordingly, the Court should enter an order enjoining Respondents from re-detaining Petitioner absent adequate procedural safeguards, as set forth in detail below (*see infra* Section VII (prayer for relief)). *See Francois*, 2025 WL 3063251, at \*5 (enjoining further re-detention in connection with petitioner’s removal order absent specific procedural safeguards); *Medero*, 2026 WL 891355, at \*4 (same); *Palacios*, 2026 WL 686138, at \*11 (same).

## 2. The Court Should Enjoin Enforcement of ICE’s Third Country Removal Policy in Violation of Petitioner’s Due Process Rights.

95. Petitioner also faces a real threat of further deprivations of his constitutional rights should ICE attempt to remove him to a third country, *i.e.*, somewhere other than Cuba. Accordingly, the Court should order injunctive relief providing that any third country removal must accord with due process. That is, Respondents should be barred from removing Petitioner to a third country unless and until Petitioner is afforded notice and a meaningful opportunity to

1 raise claims for withholding of removal, asylum, and relief under CAT in reopened removal  
2 proceedings.

3 96. The INA delineates the proper procedures by which a country may be designated  
4 for a noncitizen's removal. "Under the INA, a noncitizen may be removed to (in order of priority):  
5 (1) a country designated by the noncitizen; (2) a country where the noncitizen is a subject,  
6 national, or citizen; or (3) a country where the noncitizen has a lesser connection." *Gelabet*, 2026  
7 WL 621436, at \*2 (Martinez, J.) (citing 8 U.S.C. § 1231(b)(2)). Only if it is "impracticable,  
8 inadvisable, or impossible" to remove the individual to any of these countries may the  
9 Government seek to remove the individual to a third country "whose government will accept"  
10 him into that country. *Id.* (citing 8 U.S.C. § 1231(b)(2)(E)(vii))."

11 97. Notwithstanding these procedures, the INA prohibits removal to a third country  
12 where a person may be persecuted or tortured—a form of protection known as withholding of  
13 removal. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 208.16; *see also Gelabet*, 2026 WL 621436,  
14 at \*2. Congress also codified protections enshrined in the United Nations Convention Against  
15 Torture (CAT), which prohibits the government from removing a person to a country where they  
16 would be tortured. *See* 8 U.S.C. § 1231 note ("It shall be the policy of the United States not to  
17 expel, extradite, or otherwise effect the involuntary return of any person to a country in which  
18 there are substantial grounds for believing the person would be in danger of being subjected to  
19 torture, regardless of whether the person is physically present in the United States."); 28 C.F.R.  
20 §§ 200.1, 208.16-208.18, 1208.16-1208.18 (implementation of CAT).

21 98. Third country removal is further limited by the Fifth Amendment's Due Process  
22 Clause. Both Circuit and District precedent recognize that an individual subject to third country  
23 removal must be afforded pre-removal notice and a meaningful opportunity to pursue claims for  
24 asylum, withholding of removal, and relief under CAT. *Aden v. Nielsen*, 409 F. Supp. 3d 998,  
25 1009 (W.D. Wash. 2019) ("A noncitizen must be given sufficient notice of a country of  
26 deportation that, given his capacities and circumstances, he would have a reasonable opportunity  
27 to raise and pursue his claim for withholding of deportation."); *Nguyen v. Scott*, 796 F. Supp. 3d

703, 727 (W.D. Wash. 2025); *Abubaka v. Bondi*, No. C25-1889, 2025 WL 3204369, at \*6-7 (W.D. Wash. Nov. 17, 2025); *see also Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999) (“Failing to notify individuals who are subject to deportation that they have the right to apply ... for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.”); *Najjar v. Lynch*, 630 F. App’x 724, 724 (9th Cir. 2016) (“[L]ast minute orders of removal to a country may violate due process if an immigrant was not provided an opportunity to address his fear of persecution in that country.”); *Sadychov v. Holder*, 565 F. App’x 648, 651 (9th Cir. 2014).

99. Specifically, due process requires “written notice of the country being designated” and “the statutory basis for the designation,” *Aden*, 409 F. Supp. 3d at 1019, and the government must “be able to show that the proposed country *will* accept the [individual],” *Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004). 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,” *Aden*, 409 F. Supp. 3d at 1019. If the individual “expresses a fear of persecution or harm,” the government must inform him that he “may seek asylum, withholding, and relief under the CAT by filing a motion to reopen with the immigration courts,” and it must provide the individual “adequate time to prepare and file a motion to reopen in order to challenge DHS’s country designation and/or apply for asylum, withhold, and relief under the CAT.” *Id.* at 1019-20 (citing *Mathews*, 424 U.S. at 333).

100. Respondents’ third country removal policy ignores these statutory and constitutional requirements, and thereby subjects Petitioner to substantial risk irreparable harm. According to ICE’s July 9 policy, so long as “the [U.S.] has received diplomatic assurances from the country of removal that [individuals] removed from the [U.S.] will not be persecuted or tortured,” individuals can be removed to third countries immediately and “*without the need for further procedures.*” Welsh Decl., Ex. 3 at 1 (emphasis added). That wholesale deprivation of process is in plain violation of the Due Process Clause, as applied in the Ninth Circuit and this District. *See Aden*, 409 F. Supp. 3d at 1019-20 (citing *Andriasian*, 180 F.3d at 1041) (listing

procedural protections constitutionally due to noncitizens prior to third country removal, including notice of the country designated, a colloquy related to fear of removal, and “adequate time” to contest the removal in immigration court). Even where diplomatic assurances are *not* present, ICE’s July 9 policy carves only minimal additional procedures that are equally flawed. The policy provides no meaningful notice of removal (6-24 hours), it instructs ICE officers “not” to ask about the individual’s fear of removal, and it allows no meaningful opportunity to engage counsel and prepare a fear-based claim (6-24 hours), let alone the opportunity to actually reopen removal proceedings and adjudicate the claim. *See* Welsh Decl., Ex. 3 at 1-2. In no circumstance does the policy afford noncitizens the procedural protections that *Aden* mandates—rather, it affirmatively directs ICE officers to violate the due process rights of individuals subject to third country removal. *Nguyen*, 796 F. Supp. 3d at 728 (citing *Andriasian*, 180 F.3d at 1041) (“This policy contravenes Ninth Circuit law, as . . . [i]t would be impossible to comply both with Ninth Circuit precedent and the policy.”); *Abubabka*, 2025 WL 3204369, at \*6 (noting “[c]ourts in this district have recently found that due process challenges to ICE’s third-country removal policy are likely to succeed on the merits,” and granting habeas claims related to third country removal); *Hambarsonpour*, 2025 WL 3251155, at \*4 (Martinez, J.) (“This Court agrees with the holding in *Nguyen* and *Abubaka* and will . . . enjoin[] Respondents from removing [Petitioner] to a third country without providing constitutionally and statutorily compliant notice and an opportunity to respond and contest that removal . . .”).

101. ICE’s July 9 policy poses a serious constitutional threat to individuals subject to third country removal, including Petitioner. Indeed, the threat of third country removal, while not significantly likely to occur in the reasonably foreseeable future, is not merely hypothetical here. Respondents have been unable to remove Petitioner to Cuba for *years*, and the evidence shows Cuba will *never* welcome his return. *See* Welsh Decl., Ex. 6. What is more, ICE recently has raised the prospect of removing Petitioner to an alternative third country like Colombia (*see* Welsh Decl., Ex. 2 at 2-3), where Petitioner has no ties and fears violence and persecution. Because Petitioner faces a real and significant risk that ICE someday will enforce its unlawful

1 third country removal policy and deport him without notice or a meaningful opportunity to be  
 2 heard, Petitioner seeks injunctive relief prohibiting his removal to a third country absent  
 3 constitutionally adequate pre-deprivation procedures.

4 102. For many of the same reasons already discussed, Petitioner readily meets the test  
 5 for such relief. *See supra* ¶¶ 93-94 (citing *eBay Inc.*, 547 U.S. at 391 (establishing four-factor test  
 6 for permanent injunctive relief)) (explaining that Petitioner meets the *eBay* factors because the  
 7 violation of his due process rights constitutes irreparable harm that cannot be redressed through  
 8 monetary damages, and the balance of hardships and public interest favor an injunction). In the  
 9 context of third country removals, courts have recognized that noncitizens who have been  
 10 detained by ICE in violation of their due process rights are “likely to suffer that injury again if  
 11 Respondents attempt ... third country [removal] without the protections required by the Due  
 12 Process [C]ause,” and they are “likely to suffer even graver injury if a constitutionally deficient  
 13 removal is effected.” *Elshourbagy*, 2025 WL 3718993, at \*9. Consistent with that rationale, this  
 14 Court has repeatedly and with growing frequency enjoined the government from effectuating third  
 15 country removals without first affording habeas petitioners notice and meaningful opportunity to  
 16 contest the removal. *See, e.g., Gelabet*, 2026 WL 621436, at \*2 (Martinez, J.) (“[S]hould the  
 17 Government decide to remove Petitioner to a country other than Cuba, they must provide  
 18 Petitioner with written notice of this intent and a meaningful opportunity to respond.”); *Chicas v.*  
 19 *Bondi*, No. C26-451, 2026 WL 775635, at \*4 (W.D. Wash. Mar. 19, 2026) (Martinez, J.) (similar);  
 20 *Hambarsonpour*, 2025 WL 3251155, at \*4 (Martinez, J.) (similar); *Cao v. Scott*, No. 25-cv-  
 21 02373, 2026 WL 279352, at \*4 (W.D. Wash. Jan. 26, 2026) (similar), *report and recommendation*  
 22 *adopted*, 2026 WL 285817 (W.D. Wash. Feb. 3, 2026) (Martinez, J.). This case warrants the same  
 23 result given that the threat of third country removal pursuant to a constitutionally deficient ICE  
 24 policy is the same or greater here.

25 103. For all of the foregoing reasons, this Court should enter an order enjoining  
 26 Respondents from: (1) re-detaining Petitioner absent *either* a change of circumstances showing  
 27 his removal to Cuba is significantly likely, *or* pre-detention notice and a hearing wherein the

1 Respondents establish a lawful basis for revoking Petitioner's release; and (2) removing Petitioner  
2 to any country other than Cuba without constitutionally adequate notice and a meaningful  
3 opportunity to contest the designation in reopened removal proceedings.

4 **VI. CLAIMS FOR RELIEF**

5 **COUNT I**

6 **Unlawful Re-Detention: Substantive Due Process (*Zadvydas v. Davis*, 533 U.S. 678 (2001))**  
7 **Violation of the Fifth Amendment Due Process Clause and 8 U.S.C. § 1231(a)**

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

9 105. Petitioner's re-detention is unjustified because the law does not allow the  
10 government to detain a person in immigration custody unless that person is either a flight risk or  
11 a danger to the community. Petitioner is neither. Petitioner has never fled from ICE, has appeared  
12 at every routine check-in, and has complied with every requirement of his Order of Supervision.

13 106. Petitioner's re-detention is also unconstitutionally indefinite. There is "no  
14 significant likelihood" that Petitioner will be removed "in the reasonably foreseeable future."  
15 *Zadvydas*, 533 U.S. at 701. Cuba refuses to accept Petitioner and will not provide him travel  
16 documents. Upon information and belief, Respondents have not applied for travel documents  
17 from any other country as of the filing of this Amended Petition—even though Petitioner has now  
18 been re-detained for nearly two months. Accordingly, there is no significant likelihood of  
19 Petitioner's removal in the reasonably foreseeable future. *See Wana*, 2025 WL 3628634, at \*3.

20 107. Petitioner's re-detention therefore violates his substantive due process rights, and  
21 he is entitled to immediate release.

22 **COUNT TWO**

23 **Unlawful Re-Detention: Procedural Due Process**

24 **Violation of the Fifth Amendment Due Process Clause**

25 108. The allegations in the above paragraphs are realleged and incorporated herein.  
26  
27

1 109. Petitioner has a liberty interest in not being re-detained. Under the *Mathews* test,  
2 that interest is substantial. The risk of any erroneous deprivation is also significant, and the cost  
3 to Respondents of providing a hearing is low and significantly outweighed by other factors.

4 110. Pursuant to *Mathews*, Respondents were required to provide Petitioner with pre-  
5 deprivation notice and a hearing before re-detaining him, but they failed to do so.

6 111. Petitioner's re-detention therefore violates his procedural due process rights, and  
7 he is entitled to immediate release.

8 **COUNT THREE**

9 **Unlawful Re-Detention: Failure to Comply with Regulations (*United States ex rel. Accardi v.***  
10 ***Shaughnessy*, 347 U.S. 260 (1954))**

11 **Violation of 8 C.F.R. §§ 241.13(i), 241.4(l)**

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

13 113. Respondents violated their own regulations when they revoked Petitioner's release  
14 without proper justification. Respondents may revoke Petitioner's release only if he has violated  
15 the terms of his supervision or if changed circumstances make his removal reasonably  
16 foreseeable. *See* 8 C.F.R. §§ 241.13(i), 241.4(l). Neither is true here.

17 114. Respondents also violated their own regulations when they re-detained Petitioner  
18 without notice or an opportunity to explain himself. Respondents must follow certain procedures  
19 enumerated in 8 C.F.R. §§ 241.13(i), 241.4(l) when re-detaining a noncitizen. Respondents did  
20 not follow those procedures here.

21 115. Respondents are required to follow their own regulations. *Accardi*, 347 U.S. 260,  
22 268 (1954). Here, Respondents have not complied with their obligations under 8 C.F.R. §  
23 241.13(i) and § 241.4(l). Petitioner is therefore entitled to immediate release.

**COUNT FOUR**

**Third Country Removal**

**Violation of the Fifth Amendment, 8 U.S.C. § 1231, the Convention Against Torture, and the INA**

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

117. 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 a meaningful opportunity for Petitioner to consult counsel and 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.

118. 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 at 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").

**VII. PRAYER FOR RELIEF**

119. WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- (a) Assume jurisdiction over this action;
- (b) Order Respondents to release Petitioner from custody immediately;
- (c) Enjoin Respondents from re-detaining Petitioner unless and until:
  - (1) Respondents obtain a travel document from Cuba and secure Petitioner's departure flight; or

(2) Petitioner is provided with pre-detention notice and a hearing before an Immigration Judge, wherein Respondents establish that:

(i) Petitioner violated the conditions of his Order of Supervision, or

(ii) Petitioner is a flight risk or danger to the community;

(d) Enjoin Respondents from removing or seeking to remove Petitioner to a third country without notice and meaningful opportunity to respond in reopened removal proceedings, as required under the applicable statutes and principles of due process;

(e) Award costs and reasonable attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

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

Dated: April 13, 2026

Respectfully submitted,

/s/ Madison Welsh

Madison Welsh, WSBA #60250

Eric P. Tuttle, WSBA #46820

Nicholas R. Sidney, WSBA #54982

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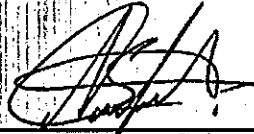
**CARLOS A. SARABASA**

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**VERIFICATION**

Pursuant to 28 U.S.C. § 2242, I, Carlos A. Sarabasa-Cobas, verify that the factual statements set forth in the foregoing Amended Petition for Writ of Habeas Corpus and Injunctive Relief are true and correct to the best of my knowledge.

DATED: April 13, 2026



Carlos A. Sarabasa-Cobas