

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAHMATULLAH SAMADI,

Petitioner,

vs.

PAMELA BONDI, Attorney General of
the United States; MARK WAYNE
MULLIN, Secretary, United States
Department of Homeland Security;
JULIO HERNANDEZ, Acting Seattle
Field Office Director, United States
Citizenship and Immigration Services;
BRUCE SCOTT, Warden of Immigration
Detention Facility; and the United States
Immigration and Customs Enforcement,

Respondents.

No.

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

PRELIMINARY MATTERS

“Congress has clearly indicated that habeas petitioners are entitled to a prompt ruling” on their petition. *Mejia v. Hermosillo*, No. CV25-02196-TMC, 2025 WL 3173842, at *1 (W.D. Wash. Nov. 13, 2025).

Petitioner Rahmatullah Samadi asks this Court to order Respondents not to remove Petitioner from this district while this case is pending, both “[b]ecause transfer of Petitioner to another district could interfere with his access to counsel and ability to participate in the proceedings,” *Tran v. Bondi, et al.*, No. CV25-1897-JLR-BAT, Dkt. 6 at 3 (W.D. Wash. Oct. 7, 2025) (*sua sponte* issuing such an order in a § 2241 case involving an ICE detainee), and “under the Court’s inherent power to preserve its ability to hear the case.” *Alves v. U.S. Dep’t of Just.*, No. EP-25-CV-306-KC, 2025 WL

2629763, at *5 (W.D. Tex. Sept. 12, 2025) (same). *See also M.M. v. Wamsley*,
No. CV25-2074-TMC, 2025 WL 3053023, at *1 (W.D. Wash. Oct. 31, 2025) (same).¹

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Rahmatullah Samadi
- (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: Mr. Samadi's A number has been provided to the government along with the filing of this petition.
3. Petitioner is currently being held on orders by federal authorities: United States Immigration and Customs Enforcement.
4. Petitioner is currently being held on an immigration charge.

Decision or Action You Are Challenging

5. What are you challenging in this petition: immigration detention.
6. Provide more information about the decision or action you are challenging:

¹ For just a few examples of other courts issuing such an order in § 2241 cases involving ICE detainees within the past few months (or reflecting the court had previously issued such an order), *see, e.g., Bustos v. Raycraft*, No. 25-13202, 2025 WL 3022294, at *2 (E.D. Mich. Oct. 29, 2025); *Ferro v. Hyde*, No. CV25-513-SDN, 2025 WL 3003708, at *1 (D. Me. Oct. 27, 2025) (order issued same day petition was filed); *Lopez Pop v. Noem*, No. CV25-2589-SSS-SSC, 2025 WL 3050095, at *7 (C.D. Cal. Oct. 3, 2025); *Singh v. Delaney Hall*, No. CV25-16018-GC, 2025 WL 2772644, at *1 (D.N.J. Sept. 29, 2025); *Hom v. Ceja*, No. CV25-2221-WJM-TPO, 2025 WL 2801449, at *2 (D. Colo. Sept. 17, 2025).

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

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

5 (c) Decision or action you are challenging: Mr. Samadi was taken into
6 custody by ICE on July 7, 2025, over eight months ago. Previous to his detention, on
7 December 7, 2023, an immigration judge simultaneously ordered him removed to
8 Afghanistan and granted withholding of removal under the INA. *See* Ex. 1. Mr. Samadi
9 was then released. Mr. Samadi has been wrongfully re-detained without notice, and his
10 removal is not reasonably foreseeable because he was granted withholding of removal.

11 **Your Earlier Challenges of the Decision or Action**

12 7-9. First, second, and third appeals: None

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

14 11. Appeals of immigration proceedings:

15 Does this case concern immigration proceedings? Yes

16 (a) Date you were taken into immigration custody: July 7, 2025

17 (b) Date of the removal and withholding order: December 7, 2023.

18 (c) Did you or the government file an appeal with the Board of Immigration
19 Appeals? No.

20 (d) Did you or the government appeal the decision to the United States Court
21 of Appeals? No

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

Grounds for Your Challenge in This Petition

I. INTRODUCTION

Petitioner Rahmatullah Samadi is presently detained at the Northwest ICE Processing Center (NWIPC). Petitioner has been held in immigration custody for over eight months. Removal to the former country of residence is not reasonably foreseeable, *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), because an immigration judge granted withholding of removal to Afghanistan on December 7, 2023. *See* Ex. 1. Petitioner seeks (a) release; (b) an order preventing re-detention unless the government establishes by clear and convincing evidence at a hearing before a neutral decisionmaker that Petitioner is a flight risk or a danger to the community, based on changed circumstances after their most recent release by ICE; (c) an order preventing removal to a third country without notice and meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings; and (d) an order barring removal to any third country where he is likely to face imprisonment or harm pursuant to Respondents' punitive removal policy.

II. JURISDICTION AND VENUE

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

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

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

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

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

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

Petitioner is "in custody" for the purpose of § 2241 because he has been detained by Respondent ICE in Tacoma, Washington, since July 7, 2025.

IV. PARTIES

Mr. Samadi is a citizen of Afghanistan. Although his removal orders him removed to Afghanistan, it also grants withholding of removal to Afghanistan. Ex. 1. Mr. Samadi is nonetheless still detained in the control and custody of Respondents at NWIPC. As such, Petitioner is a resident of Tacoma, Washington.

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

Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). In this capacity, Respondent Mullin is the legal custodian of Petitioner. Respondent Mullin is sued in his official capacity.

Respondent Laura Hermosillo is the Field Office Director for ICE Enforcement and Removal Operations ("ERO") in Seattle, Washington. As the ERO Seattle Field Office Director, she is Petitioner's immediate custodian, responsible for his detention at

1 NWIPC, and is the person with the authority to authorize detention or release.

2 Respondent Hermosillo is sued in her official capacity.

3 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
4 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant
5 to a contract with ICE to detain noncitizens. Respondent Scott is sued in his official
6 capacity as the Warden of a federal detention facility. *See Juarez v. Asher*, No. CV20-
7 700, 2021 WL 1946222, at *3–5 (W.D. Wash. May 14, 2021).

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

12 **V. BACKGROUND**

13 Petitioner Rahmatullah Samadi was [REDACTED]

14 [REDACTED]
15 [REDACTED]
16 [REDACTED] CLP Determination Interview, Dkt. 2 at 7; CLP
17 Reasonable Possibility Checklist, Ex. 3 at 2. [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED] *Id.* at 7–8. On the basis
23 of this evidence, Mr. Samadi was granted withholding of removal under the INA. Ex. 1.
24
25
26

1 **VI. PARTICULARIZED FACTS PERTAINING TO PETITIONER'S**
 2 **CONTINUED DETENTION**

3 Mr. Samadi cannot presently be returned to Afghanistan, because he has been
 4 granted a withholding of removal to Afghanistan. *See* Ex. 1. Removal to Afghanistan is
 5 thus not reasonably foreseeable. ICE is prohibited from seeking a travel document from
 6 Afghanistan and has not provided evidence of a travel document for any other country.
 7 Upon information and belief, no country has agreed to accept Petitioner.

8 **VII. THE LEGAL FRAMEWORK REGARDING INDEFINITE DETENTION**
 9 **PENDING REMOVAL**

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

12 Under 8 U.S.C. § 1231, detention of noncitizens who have been ordered
 13 removed is mandatory during the so-called 90-day “removal period.” 8 U.S.C.
 14 § 1231(a)(1)(A). This period begins on the “date the order of removal becomes
 15 administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). But the *Zadvydas* Court believed
 16 that a “serious constitutional threat” under the Fifth Amendment’s Due Process Clause
 17 was posed by the indefinite detention of noncitizens. 533 U.S. at 699. The Court
 18 therefore interpreted 8 U.S.C. 1231(a)(6) to permit only detention related to the
 19 statute’s “basic purpose [of] effectuating [a noncitizen]’s removal[.]” *Id.* at 696–99.

20 The Court further held that the presumptive period during which the detention is
 21 reasonably necessary to effectuate a noncitizen’s removal is six months. After that, the
 22 noncitizen is eligible for conditional release if there is “no significant likelihood of
 23 removal in the reasonably foreseeable future[.]” *Id.* at 701. After the “presumptively
 24 reasonable” period of six months, when the noncitizen can “provide[] good reason to
 25 believe that there is no significant likelihood of removal in the reasonably foreseeable
 26 future,” then “the Government must respond with evidence sufficient to rebut that
 showing.” *Id.*

1 The issue is not whether Respondents have been able to remove some
 2 individuals to a given country. Rather, the court must make an individualized analysis
 3 as to a particular detainee. *See Nguyen v. Scott*, 796 F. Supp. 3d 703, 726 (W.D. Wash.
 4 Aug. 21, 2025) (stating increase in total number of removals to Vietnam, including
 5 those who entered pre-1995, fails to rebut the evidence presented by Petitioner that “his
 6 individual circumstances make removal unlikely.”). Facts that are part of the analysis
 7 for Mr. Samadi may include whether Respondent provides evidence that a request was
 8 submitted to a third country and the third country’s response.

9 **VIII. THE LAW PERTAINING TO A NONCITIZEN’S PROCEDURAL DUE**
 10 **PROCESS RIGHT NOT TO BE RE-DETAINED ABSENT A HEARING**
 11 **ESTABLISHING THAT THE INDIVIDUAL IS EITHER A FLIGHT RISK**
 12 **OR A DANGER TO THE COMMUNITY**

13 Petitioner seeks an injunction against future re-detention without pre-deprivation
 14 notice and a hearing. Petitioner therefore includes the following discussion.

15 Procedural due process requires notice and an opportunity to be heard. *Mathews*
 16 *v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural
 17 due process rights, a petitioner must establish (1) a protected property or liberty interest,
 18 and (2) a denial of adequate procedural protections. *ASSE Int’l, Inc. v. Kerry*, 803 F.3d
 19 1059, 1073 (9th Cir. 2015). The Court must also consider “the Government’s interest,
 20 including the function involved and the fiscal and administrative burdens that the
 21 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).

22 Mr. Samadi’s interest in not being detained is “the most elemental of liberty
 23 interests[.]” *Acosta-Ginori v. Bondi*, No. 2:25-CV-02649-RAJ, 2026 WL 221509, at *4
 24 (W.D. Wash. Jan. 28, 2026) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004))
 25 (granting petition and, 2026 WL 221509, at *7, ordering immediate release with no re-
 26

1 detention “unless and until providing at least 10 days’ notice and an opportunity to be
2 heard before an immigration judge to determine whether re-detention is appropriate”).

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

5 First, the private interest that will be affected by the official action;
6 second, the risk of an erroneous deprivation of such interest through the
7 procedures used, and the probable value, if any, of additional or substitute
8 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.

9 *Id.* (quoting *Mathews*, 424 U.S. at 335).

10 Given that the liberty interest here is “the most elemental,” this first factor
11 should weigh heavily in a petitioner’s favor. Mr. Samadi’s status as a noncitizen does
12 not negate that interest. “While the temporary detention of non-citizens may sometimes
13 be justified by concerns about public safety or flight risk, the Government’s discretion
14 to incarcerate non-citizens is always constrained by the requirements of due process[.]”
15 *Tzafir v. Bondi*, No. 25-CV-02126-JHC, 2026 WL 81759, at *4 (W.D. Wash. Jan. 12,
16 2026) (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

17 In fact, as an individual who was previously released by ICE, a petitioner has a
18 higher liberty interest than that of the normal ICE detainee. *See Lecky v. Bondi*,
19 No. 2:25-cv-02637-TLF, 2026 WL 266066, at *7 (W.D. Wash. Feb. 2, 2026) (“A
20 released individual had an opportunity to form the enduring attachments of normal life
21 and thus has a heightened liberty interest”) (cleaned up).

22 The second factor, risk of an erroneous deprivation of liberty, also weighs in
23 Mr. Samadi’s favor. A detainee’s prior release to the community on an OREC
24 “reflected ICE’s determination that [he] was neither a flight risk nor a danger to the
25 community.” *Francisco Lorenzo v. Bondi*, No. 2:25-CV-02660-LK, 2026 WL 237501,
26 at *5 (W.D. Wash. Jan. 29, 2026). “Petitioner’s re-detention without any change in

1 circumstances or procedure establishes a high risk of erroneous deprivation of his
2 protected liberty interest.” *Todd v. Bondi*, No. 25-CV-02519-JHC, 2026 WL 145725, at
3 *4 (W.D. Wash. Jan. 20, 2026).

4 The final factor, the government’s interest in detaining a petitioner without
5 providing a pre-deprivation hearing, also weighs in Mr. Samadi’s favor. “[T]he
6 Government’s interest in re-detaining non-citizens previously released without a
7 hearing is low[.]” *Lecky*, 2026 WL 266066, at *8 (citation omitted). “While a pre-
8 detention process would impose some administrative burden, that burden is minimal
9 when weighed against the fundamental liberty interest at stake and the high risk of
10 erroneous deprivation. Providing effectively no pre-deprivation process, as ICE did
11 here, is constitutionally insufficient.” *Id.*

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

16 The holding that a released detainee was entitled to a pre-deprivation hearing
17 comes not from *Ledesma Gonzalez* and *E.A. T.-B.* alone; dozens of other courts have
18 reached this conclusion as well. And while those two cases did not involve petitioners
19 within final removal orders, many courts have found a liberty interest in not being re-
20 detained, applied the *Mathews* factors as discussed above, and have granted immediate
21 release. *See, e.g., Huy Van Tran v. Bondi*, No. 2:25-CV-02335-DGE-TLF, 2025 WL
22 3725677, at *5 (W.D. Wash. Dec. 24, 2025) (finding that detainee with final order of
23 removal has liberty interest and fact that detainee was allowed to remain in community
24 under order of supervision “only strengthens this interest”); *Khim v. Bondi*, No. 2:25-
25 CV-02383-RSL, 2025 WL 3653724, at *4 (W.D. Wash. Dec. 17, 2025) (applying the
26 *Mathews* analysis from *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316 (W.D. Wash.

2025), to detainee with final order of removal); *Jimenez v. Bondi*, No. CV25-2167RSM, 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 Petitioner receive proper notice and an opportunity to respond before he can be re-detained”; barring re-detention “without providing adequate notice of the reasons for his re-detention and a meaningful opportunity to respond.” *Id.* at *3). *Cf. Lopez Dejesus v. Bostock*, No. 25-CV-01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash. Nov. 24, 2025) (applying *Mathews* factors to conclude that petitioner was entitled to pre-re-detention due process, even though his present detention was pursuant to the mandatory detention provisions of 8 U.S.C. § 1226(c)).²

In any hearing held by the government to justify re-detention, the government bears the burden of establishing flight risk or danger by clear and convincing evidence. *See, e.g., Ahmed v. Bondi*, No. CV25-2718JLR, 2026 WL 252078, at *5 (W.D. Wash. Jan. 30, 2026) (imposing that standard for any re-detention, *citing Sanchez v. Bondi*, No. CV25-2573KKE, 2026 WL 160882, *6 (W.D. Wash. Jan. 21, 2026); *Toktosunov v. Wamsley*, CV25-1724TL, 2025 WL 3492858, at *6 (W.D. Wash. Dec. 5, 2025)).

In addition, the government should be required to meet its burden based on changed circumstances subsequent to Mr. Samadi’s previous release by ICE. *See, e.g., Hamedani v. Bondi*, No. 2:25-CV-02509-JNW, 2026 WL 452424, at *5 (W.D. Wash. Feb. 18, 2026) (“To the extent the Government seeks to revoke Hamedani’s release and re-detain him, any such decision must be supported by changed circumstances demonstrating a significant likelihood that he may be removed in the reasonably foreseeable future.”); *Kara v. Bondi*, No. 2:26-CV-00105-JHC, 2026 WL 322772, at *4

² The *Lopez Dejesus* opinion does not mention that detention was pursuant to § 1226(c); that fact is shown in Respondents’ Return Memorandum, No. 25-CV-01427-JHC-TLF, Dkt. 16 at 1 (W.D. Wash. Oct. 6, 2025).

(W.D. Wash. Feb. 6, 2026) (requiring “that the government not re-detain Petitioner without notice and a hearing and absent changed circumstances”).

IX. THE LAW PERTAINING TO A NONCITIZEN’S REGULATORY RIGHT NOT TO BE RE-DETAINED ABSENT NOTICE, AN OPPORTUNITY TO BE HEARD, AND FINDINGS THAT THE REGULATORY STANDARDS FOR RE-DETENTION HAVE BEEN MET.

The revocation of a noncitizen’s release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen’s release under § 1231 for purposes of removal or for violation of conditions of release. The government may revoke a noncitizen’s release and return them to ICE custody due to failure to comply with any of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of changed circumstances, the [Immigration] Service determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future,” *id.* § 241.13(i)(2).

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

the [noncitizen] will be notified of the reasons for revocation of his or her release. [ICE] will conduct an initial informal interview promptly after his or her return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification. The [noncitizen] may submit 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).

ICE's decision to re-detain also cannot be arbitrary, but instead is governed by 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.

Id. While courts do not make these determinations in the first instance, they may review them for compliance with the regulation. *See Tran v. Bondi*, No. CV25-01897-JLR, 2025 WL 3140462 (W.D. Wash. Nov. 10, 2025); *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150 (D. Mass. June 20, 2025) (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

X. THE LEGAL FRAMEWORK FOR THIRD-COUNTRY REMOVALS

The immigration laws delineate the proper procedures by which a country may be designated for removal. *See* 8 U.S.C. § 1231(b). These procedures move in incremental steps.

First, an individual with a removal order may designate the country to which they want to be removed, and the government *shall* remove the individual to that country. 8 U.S.C. § 1231(b)(2)(A). The government may disregard that designation if (1) the individual fails to designate a country promptly; (2) the government of that country does not inform the U.S. government finally, within 30 days after the date the U.S. government first inquires, whether the government will accept the individual into that country; (3) the government of the country is not willing to accept the individual into the country; or (4) the government decides that removing the individual to that country is prejudicial to the United States. 8 U.S.C. § 1231(b)(2)(C).

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

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

21 Notwithstanding any of these procedures, the statute prohibits removal to a third
22 country where a person may be persecuted or tortured, a form of protection known as
23 withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The government “may not
24 remove [a noncitizen] to a country if the Attorney General decides that the
25 [noncitizen’s] life or freedom would be threatened in that country because of the
26 [noncitizen’s] race, religion, nationality, membership in a particular social group, or

1 political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
2 a mandatory protection.

3 Similarly, Congress codified protections enshrined in the Convention Against
4 Torture (CAT) prohibiting the government from removing a person to a country where
5 they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998
6 (“FARRA”), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822
7 (8 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel,
8 extradite, or otherwise effect the involuntary return of any person to a country in which
9 there are substantial grounds for believing the person would be in danger of being
10 subjected to torture, regardless of whether the person is physically present in the United
11 States.”); 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also
12 mandatory.

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

1 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-
2 71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“at the time the government
3 proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must
4 be able to show that the proposed country *will* accept the [individual]”).

5 Due process also demands that the government “ask the noncitizen whether he or
6 she fears persecution or harm upon removal to the designated country and memorialize
7 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
8 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
9 about what the officer and noncitizen said].” *Aden*, 409 F. Supp. 3d at 1019; *cf. D.V.D.*,
10 2025 WL 1453640, at *1 (“Following notice, the individual must be given a meaningful
11 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
12 prior to removal.”) (emphasis omitted).

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

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

XI. FACTS PERTAINING TO PUNITIVE BANISHMENT TO THIRD COUNTRIES

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

Respondents reportedly have negotiated with at least 58 countries to accept deportees from other nations. On June 25, 2025, the *New York Times* reported that seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees who are not their own citizens.³ Since then, ICE has carried out highly publicized third-country deportations to South Sudan and Eswatini. It also attempted—and completed—an “end-run” around the protections of the Convention Against Torture by deporting a group of migrants to Ghana, which sent them on to their countries of citizenship despite fears of persecution.

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

³ 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 tiny African nation of Eswatini, including one man from Vietnam, where they are
2 reportedly being held in solitary confinement.

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

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

21 The memo further instructs that if the noncitizen “does not affirmatively state a
22 fear of persecution or torture if removed to the country of removal listed on the Notice
23 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
24 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the
25 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration
26 Services (“USCIS”) for a screening for eligibility for withholding of removal and

1 protection under the Convention Against Torture. “USCIS will generally screen within
2 24 hours.” If USCIS determines that the noncitizen does not prove to the screener’s
3 satisfaction that it is more likely than not that the noncitizen will be tortured, the
4 individual will be removed. This imposes on the noncitizen a higher standard than the
5 “reasonable fear” and “credible fear” standards found in the INA. If USCIS determines
6 that the noncitizen has met the standard, then the policy directs ICE to either move to
7 reopen removal proceedings “for the sole purpose of determining eligibility for
8 [withholding of removal protection] and CAT” or designate another country for
9 removal.

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

14 Further support that petitioner faces a risk of punitive third-country removal
15 comes from two declarations submitted in *Nguyen*, attached here as Exhibits 5 and 6.
16 They detail removals to third countries with little or no notice, as described in *Nguyen*,
17 796 F. Supp. 3d at 736–37.

18 This practice and policy continues unabated. *See* Pranav Baskar and Hamed
19 Aleaziz, *U.S. Deports Nine Migrants in Secret, Ignoring Legal Protections*, N.Y. Times
20 (Feb. 14, 2026), [https://www.nytimes.com/2026/02/14/world/africa/us-secret-](https://www.nytimes.com/2026/02/14/world/africa/us-secret-deportation-cameroon.html?smid=nytcore-ios-share)
21 [deportation-cameroon.html?smid=nytcore-ios-share](https://www.nytimes.com/2026/02/14/world/africa/us-secret-deportation-cameroon.html?smid=nytcore-ios-share) [<https://perma.cc/HX2S-MTZD>].
22 The article details how the individuals—who had court orders preventing them from
23 being returned to their home countries—did not know they were being sent to
24 Cameroon “until they were handcuffed and chained on a Department of Homeland
25 Security flight[.]” *Id.* Since arrival, they have been detained in a state-owned compound
26

1 and told by authorities “they cannot leave the facility unless they agree to return to their
2 home countries, from which they fled to escape war or persecution.”

3 **XII. THE LAW GOVERNING PUNITIVE REMOVAL PRACTICES**

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

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

23 Deportation of individuals to third countries to be imprisoned or harmed is
24 unquestionably punishment.
25
26

XIII. THE LAW GOVERNING INJUNCTIVE RELIEF

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

Grounds for Relief

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

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

Because Petitioner’s removal order became final on December 7, 2023, the removal period has long since expired, and detention is no longer required under 8 U.S.C. § 1231. In addition, the presumptively reasonable period of six months has passed.

There is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701. He cannot be removed to Afghanistan and upon information and belief, no other country has agreed to accept him.

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

Ground Two: Procedural Due Process

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

Petitioner has a liberty interest in not being re-detained. Applying the three-factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is also high, because ICE's previous release of him necessarily reflected a conclusion that he was not a flight risk or a danger to the community. Here, as in *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *8 (W.D. Wash. Oct. 7, 2025), "ICE revoked that release without any reassessment of those factors." 2025 WL 2841574, at *8.

In addition, the cost to the government of providing a hearing is low, and it is significantly outweighed by the other factors. Any re-detention without this process will violate his constitutional rights and would be therefore unlawful.

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

Furthermore, there is a significant likelihood that Respondents would seek again to re-detain Petitioner unlawfully. Respondents have a policy to round up as many noncitizens as possible. *See, e.g.*, Jose Olivares, "Trump administration sets quota to arrest 3,000 people a day in anti-immigration agenda," *The Guardian* (May 29, 2025), <https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota> [<https://perma.cc/6P5L-NUDM>].

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

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

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

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

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

25 In addition, the matter is ripe. The facts set forth above—including Respondents'
26 stated policy regarding third-country removals—make it reasonably likely that

1 Respondents would seek to remove Petitioner to a third country without complying
2 with their regulatory and constitutional obligations to provide Petitioner with notice and
3 an opportunity to be heard.

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

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

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

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

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

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

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

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

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

22 Furthermore, the matter is ripe. The facts set forth above—including
23 Respondents' stated policy regarding third-country removals—make it reasonably
24 likely that Respondents would seek to remove Petitioner to a third country with a
25 punitive intent and punitive result.
26

Prayer for Relief

Petitioner respectfully requests that this Court:

- (a) Assume jurisdiction over this action;
- (b) Order Respondents to immediately release Petitioner from custody;
- (c) Order Respondents to, within 24 hours of his release, provide the Court with a declaration confirming that Petitioner has been released from custody;
- (d) Order that Respondents may not re-detain Petitioner without first holding a hearing before a neutral decisionmaker at which the government bears the burden of establishing flight risk or danger to the community by clear and convincing evidence based on changed circumstances since Petitioner was previously released;
- (e) Order that the government may not otherwise re-detain Petitioner unless the government:
 - (1) obtains a valid travel document to a third country for him,
 - (2) provides the valid travel document to him and his counsel,
 - (3) offers Petitioner the opportunity to leave on his own within two months, and
 - (4) Petitioner does not leave. Under such circumstances, the government may be permitted to re-detain Petitioner provided it has already made concrete arrangements for him to be put on a flight to a third country in the reasonably foreseeable future.

See Do v. Scott, No. C25-2187RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5, 2025); *Tang*, 2025 WL 3551381, at *3.

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

1 (g) Order that Respondents may not remove Petitioner to any third country
2 where he is likely to face imprisonment or other punishment upon arrival; and

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

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

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

12 DATED this 1st day of April 2026.

13 Respectfully submitted,

14 *s/ Corey Endo*
15 Federal Public Defender
16 Attorney for Rahmatullah Samadi
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