

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DARYOUSH MONAZZAMI,

Petitioner,

vs.

TODD BLANCHE, Acting Attorney
General of the United States;
MARKWAYNE 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
United States Immigration and Customs
Enforcement,

Respondents.

No. CV26-1155

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

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Daryoush Monazzami
- (b) Other names used: None
2. Place of confinement:
 - (a) Northwest Immigration Processing Center (NWIPC)
 - (b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a contractual arrangement with my custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.

(c) Case number or numbers [ICE file number, if known]: Petitioner's A# has been provided to the government along with the filing of this petition.

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

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

Decision or Action You Are Challenging

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

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

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

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

(c) Decision or action you are challenging: Petitioner was initially ordered removed on January 29, 2024. Petitioner was detained by ICE on August 23, 2023, and was released on an order of supervision on June 7, 2024. He was re-detained on August 27, 2025. Petitioner has been detained in ICE custody for over 11 months following the final removal order.

Your Earlier Challenges of the Decision or Action

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

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

11. Appeals of immigration proceedings:

Does this case concern immigration proceedings? Yes

(a) Date you were taken into immigration custody: August 23, 2023

(b) Date of the removal or reinstatement order: January 29, 2024

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

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

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

Grounds for Your Challenge in This Petition

I. Introduction

Petitioner Monazzami is presently detained at the Northwest ICE Processing Center (NWIPC). Petitioner has been held in immigration custody for over 11 months since his order of removal became final. Removal to the former country of residence is not reasonably foreseeable. Petitioner's continued detention is therefore in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Petitioner seeks (a) release; (b) an order preventing re-detention unless the government establishes by clear and convincing evidence at a hearing before a neutral decisionmaker that Petitioner is a flight risk or a danger to the community, based on changed circumstances after their most recent release by ICE; (c) an order preventing removal to a third country without notice and meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings; and (d) an order barring removal to any third country pursuant to Respondents' punitive removal policy.

Petitioner was initially detained on August 23, 2023, attempting to enter the United States from Mexico. Petitioner was released on June 7, 2024, under an Order of Supervision. Since Petitioner's release, he has complied with all conditions of his supervision. On August 27, 2025, Petitioner was re-detained without any determination by the government that he had become a flight risk or a danger to the community.

II. Jurisdiction and Venue

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

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

5 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
7 U.S.C. § 1651; the Due Process Clause of the Fifth Amendment; and the Court's
8 inherent equitable powers.

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

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

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

18 Petitioner is "in custody" for the purpose of § 2241 because he has been detained
19 by Respondent ICE in Tacoma, Washington, since August 27, 2025.

20 **IV. Parties**

21 Petitioner Monazzami is a citizen of Iran. He has a final order of removal, with
22 Iran as the country designated for removal. Petitioner is detained in the control and
23 custody of Respondents at NWIPC. As such, Petitioner is a resident of Tacoma,
24 Washington.

1 Respondent Todd Blanche is the Acting Attorney General of the United States.
2 In this capacity, Respondent Blanche is the legal custodian of Petitioner. Respondent
3 Bondi is sued in his official capacity.

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

7 Respondent Julio Hernandez is the Acting Field Office Director for ICE
8 Enforcement and Removal Operations ("ERO") in Seattle, Washington. As the ERO
9 Seattle Field Office Director, he is Petitioner's immediate custodian, is responsible for
10 his detention at NWIPC, and is the person with the authority to authorize detention or
11 release. Respondent Hernandez is sued in his official capacity.

12 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
13 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant
14 to a contract with ICE to detain noncitizens. Respondent Scott is sued in his official
15 capacity as the Warden of a federal detention facility. *See Juarez v. Asher*, No. CV20-
16 700, 2021 WL 1946222, at *3-5 (W.D. Wash. May 14, 2021).

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

21 **V. Background**

22 Mr. Monazzami was born in Iran on [REDACTED] He fled Iran in 2023 due to
23 fear of persecution. He is [REDACTED]

24 [REDACTED]
25 [REDACTED]
26 [REDACTED]

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4 After a brief stay in Turkey, he eventually arrived in the United States as a
5 refugee that same year, coming through Mexico.

6 On January 29, 2024, a final order of deportation was issued, ordering his
7 removal to Iran. He was detained for approximately four months before being released
8 on supervision because his removal to Iran was not reasonably foreseeable. He was
9 directed to check in with ICE periodically after his release. Since June, 2024, he has
10 complied with his release conditions. He was released to the custody of his uncle. He
11 attended college at Glendale community college.

12 **VI. Particularized Facts Pertaining to Petitioner's Continued Detention**

13 Mr. Monazzami cannot presently be returned to Iran. On information and belief,
14 ICE has made no efforts to remove him to Iran. When he has requested information,
15 regarding the status of his case, he has been informed only that his ICE officer will deal
16 with it.

17 ICE considers Iran as one of only 15 "uncooperative" countries that does not
18 facilitate return of its nationals. Ex. 1. Iran does not "conduct[] interviews, issu[e] travel
19 documents in a timely manner, [or] accept[] the physical return of their nationals by
20 scheduled commercial or charter flights consistent with ICE and/or foreign government
21 removal guidelines." *Id.* Removal to Iran is thus not reasonably foreseeable. ICE has
22 had more than two and one-half years to get travel documents for Mr. Monazzami, and
23 Iran has not agreed to accept him.

24 **VII. The Legal Framework Regarding Indefinite Detention Pending Removal**

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

1 Under 8 U.S.C. § 1231, detention of noncitizens who have been ordered
2 removed is mandatory during the so-called 90-day “removal period.” 8 U.S.C.
3 § 1231(a)(1)(A). This period begins on the “date the order of removal becomes
4 administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). But the *Zadvydas* Court believed
5 that a “serious constitutional threat” under the Fifth Amendment’s Due Process Clause
6 was posed by the indefinite detention of noncitizens. 533 U.S. at 699. The Court
7 therefore interpreted 8 U.S.C. 1231(a)(6) to permit only detention related to the
8 statute’s “basic purpose [of] effectuating [a noncitizen]’s removal[.]” *Id.* at 696–99.

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

17 The issue is not whether Respondents have been able to remove some
18 individuals to a given country. Rather, the court must make an individualized analysis
19 as to a particular detainee. *See Nguyen v. Scott*, 796 F.Supp.3d 703, 726 (W.D. Wash.
20 Aug. 21, 2025) (stating increase in total number of removals to Vietnam, including
21 those who entered pre-1995, fails to rebut the evidence presented by Petitioner that “his
22 individual circumstances make removal unlikely.”). Facts that are part of the analysis
23 include whether Respondent provides evidence that the request was submitted to Iran,
24 whether Iran has acknowledged receipt of the request or otherwise responded to
25 Petitioner’s request, and the anticipated wait time for a response from Iran.

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

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

Petitioner’s interest in not being detained is “the most elemental of liberty interests[.]” *Acosta-Ginori v. Bondi*, No. 2:25-CV-02649-RAJ, 2026 WL 221509, at *4 (W.D. Wash. Jan. 28, 2026) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting petition and, 2026 WL 221509, at *7, ordering immediate release with no re-detention “unless and until providing at least 10 days’ notice and an opportunity to be heard before an immigration judge to determine whether re-detention is appropriate”).

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

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

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

Given that the liberty interest here is “the most elemental,” this first factor should weigh heavily in a petitioner’s favor. Petitioner’s status as a noncitizen does not negate that interest. “While the temporary detention of non-citizens may sometimes be

1 justified by concerns about public safety or flight risk, the Government's discretion to
2 incarcerate non-citizens is always constrained by the requirements of due process[.]”
3 *Tzafir v. Bondi*, No. 25-CV-02126-JHC, 2026 WL 81759, at *4 (W.D. Wash. Jan. 12,
4 2026) (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

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

10 The second factor, risk of an erroneous deprivation of liberty, also weighs in
11 Petitioner's favor. A detainee's prior release to the community on an OREC “reflected
12 ICE's determination that [he] was neither a flight risk nor a danger to the community.”
13 *Francisco Lorenzo v. Bondi*, No. 2:25-CV-02660-LK, 2026 WL 237501, at *5 (W.D.
14 Wash. Jan. 29, 2026). “Petitioner's re-detention without any change in circumstances or
15 procedure establishes a high risk of erroneous deprivation of his protected liberty
16 interest.” *Todd v. Bondi*, No. 25-CV-02519-JHC, 2026 WL 145725, at *4 (W.D. Wash.
17 Jan. 20, 2026).

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

1 In this district, *see also, e.g., Huy Van Tran v. Bondi*, No. 2:25-CV-02335-DGE-
 2 TLF, 2025 WL 3725677, at *5 (W.D. Wash. Dec. 24, 2025) (finding that detainee with
 3 final order of removal has liberty interest and fact that detainee was allowed to remain
 4 in community under order of supervision “only strengthens this interest”); *Khim v.*
 5 *Bondi*, No. 2:25-CV-02383-RSL, 2025 WL 3653724, at *4 (W.D. Wash. Dec. 17,
 6 2025) (applying the *Mathews* analysis from *E.A. T.-B. v. Wamsley*, 795 F.Supp.3d 1316
 7 (W.D. Wash. 2025), to detainee with final order of removal); *Jimenez v. Bondi*,
 8 No. C25-2167RSM, 2025 WL 3466925, at *2 (W.D. Wash. Dec. 3, 2025) (finding that
 9 petitioner with final order of removal “has a protected liberty interest in his continuing
 10 release from custody, and that due process requires that Petitioner receive proper notice
 11 and an opportunity to respond before he can be re-detained”; barring re-detention
 12 “without providing adequate notice of the reasons for his re-detention and a meaningful
 13 opportunity to respond.” *Id.* at *3). *Cf. Lopez Dejesus v. Bostock*, No. 25-CV-01427-
 14 JHC-TLF, 2025 WL 3268002 (W.D. Wash. Nov. 24, 2025) (applying *Mathews* factors
 15 to conclude that petitioner was entitled to pre-re-detention due process, even though his
 16 detention was pursuant to the mandatory detention provisions of 8 U.S.C. § 1226(c)).¹

17 In any hearing held by the government to justify re-detention, the government
 18 bears the burden of establishing flight risk or danger by clear and convincing evidence.
 19 *See, e.g., Ahmed v. Bondi*, No. C25-2718JLR, 2026 WL 252078, at *5 (W.D. Wash.
 20 Jan. 30, 2026) (imposing that standard for any re-detention, *citing Sanchez v. Bondi*,
 21 No. C25-2573KKE, 2026 WL 160882, *6 (W.D. Wash. Jan. 21, 2026); *Toktosunov v.*
 22 *Wamsley*, C25-1724TL, 2025 WL 3492858, at *6 (W.D. Wash. Dec. 5, 2025)).

23 In addition, the government should be required to meet its burden based on
 24 changed circumstances subsequent to the petitioner’s previous release by ICE. *See, e.g.,*

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

1 *Hamedani v. Bondi*, No. 2:25-CV-02509-JNW, 2026 WL 452424, at *5 (W.D. Wash.
 2 Feb. 18, 2026) (“To the extent the Government seeks to revoke Hamedani’s release and
 3 re-detain him, any such decision must be supported by changed circumstances
 4 demonstrating a significant likelihood that he may be removed in the reasonably
 5 foreseeable future.”); *Kara v. Bondi*, No. 2:26-CV-00105-JHC, 2026 WL 322772, at *4
 6 (W.D. Wash. Feb. 6, 2026) (requiring “that the government not re-detain Petitioner
 7 without notice and a hearing and absent changed circumstances”).

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

11 The revocation of a noncitizen’s release is governed by 8 C.F.R. § 241.13(i),
 12 which authorizes ICE to revoke a noncitizen’s release under § 1231 for purposes of
 13 removal or for violation of conditions of release. The government may revoke a
 14 noncitizen’s release and return them to ICE custody due to failure to comply with any
 15 of the conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of changed
 16 circumstances, the [Immigration] Service determines that there is a significant
 17 likelihood that the [noncitizen] may be removed in the reasonably foreseeable future,”
 18 *id.* § 241.13(i)(2). Revocation of release for violation of conditions is also authorized by
 19 8 C.F.R. § 241.4(l).

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

24 the [noncitizen] will be notified of the reasons for revocation of his or her
 25 release. [ICE] will conduct an initial informal interview promptly after his
 26 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). Section 241.4(l) similarly requires that the non-citizen “be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” Only certain officials may make a determination that revocation is warranted. § 241.4(l)(2).

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. C25-01897-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.

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

10 Second, if the individual is not removed to the country they designated under
11 § 1231(b)(2)(A), the government shall remove the individual to the country of which
12 the individual is a “subject, national, or citizen” unless the government of that country
13 does not inform the U.S. government or the individual within 30 days after first inquiry
14 or within another reasonable period of time whether the government will accept the
15 individual into the country or the country is not willing to accept the individual into the
16 country. 8 U.S.C. § 1231(b)(2)(D).

17 Third, if the individual is not removed to either the country of their designation
18 or the country of which they are a subject, national, or citizen, then the government
19 shall remove them to any of the following options: (1) the country from which the
20 individual was admitted to the United States; (2) the country in which is located the
21 foreign port from which the individual left for the United States or for a foreign
22 territory contiguous to the United States; (3) the country in which the individual resided
23 before the individual entered the United States and from which the individual entered
24 the United States; (4) the country in which the individual was born; or (5) the country in
25 which the individual’s birthplace is located when the individual was ordered removed.
26 8 U.S.C. § 1231(b)(2)(E). *Only* “[i]f impracticable, inadvisable, or impossible” to

1 remove the individual to any of these countries may the government remove the
2 individual to “another country whose government will accept [them] into that country.”
3 8 U.S.C. § 1231(b)(2)(E)(vii).

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

12 Similarly, Congress codified protections enshrined in the Convention Against
13 Torture (CAT) prohibiting the government from removing a person to a country where
14 they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998
15 (“FARRA”), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8
16 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite,
17 or otherwise effect the involuntary return of any person to a country in which there are
18 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.”);
20 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also
21 mandatory.

22 To comport with the requirements of due process, the government must provide
23 notice of the third-country removal and an opportunity to respond. Due process requires
24 “written notice of the country being designated” and “the statutory basis for the
25 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409
26 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*

1 *Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All
 2 removals to third countries, *i.e.*, removal to a country other than the country or
 3 countries designated during immigration proceedings as the country of removal on the
 4 non-citizen’s order of removal, must be preceded by written notice to both the non-
 5 citizen and the non-citizen’s counsel in a language the non-citizen can understand.”
 6 (citation omitted))²; *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due
 7 process requires notice to the noncitizen of the right to apply for asylum and
 8 withholding to the country where they will be removed). The government must be able
 9 to show evidence that the third country will accept the individual into that country. *See*
 10 *Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v.*
 11 *Ashcroft*, No. 03-71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“at the time the
 12 government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the
 13 government must be able to show that the proposed country *will* accept the
 14 [individual]”).

15 Due process also demands that the government “ask the noncitizen whether he or
 16 she fears persecution or harm upon removal to the designated country and memorialize
 17 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
 18 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
 19 about what the officer and noncitizen said].” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,
 20 2025 WL 1453640, at *1 (“Following notice, the individual must be given a meaningful
 21 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
 22 prior to removal.”) (emphasis omitted).

23
 24
 25 ² The *D.V.D.* court’s preliminary injunction was withdrawn and a declaratory judgment
 26 was entered February 25, 2026. 2026 WL 521557. The court’s order was appealed and
 a stay was granted. Nothing in the declaratory judgment or stay undercuts the
 persuasive value of the cited Memorandum on Preliminary Injunction.

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

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

15 **XI. Facts Pertaining to Punitive Banishment to Third Countries**

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

20 Respondents reportedly have negotiated with at least 58 countries to accept
 21 deportees from other nations. On June 25, 2025, the *New York Times* reported that
 22 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
 23 Rwanda—had agreed to accept deportees who are not their own citizens.³ Since then,
 24 ICE has carried out highly publicized third-country deportations to South Sudan and

25 ³ Edward Wong, et al., *Inside the Global Deal-Making Behind Trump's Mass*
 26 *Deportations*, N.Y. Times (June 25, 2025), <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html> [<https://perma.cc/64G9-XYGB>].

1 Eswatini. It also attempted—and completed—an “end-run” around the protections of
2 the Convention Against Torture by deporting a group of migrants to Ghana, which sent
3 them on to their countries of citizenship despite fears of persecution.

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

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

22 On July 9, 2025, ICE issued a new memo (exhibit 2) stating that, when seeking
23 to remove an individual to a country not designated on the removal order, ICE may
24 deport that person without any procedures for notice or an opportunity to be heard if the
25 State Department confirms it has received diplomatic assurances that individuals will
26 not be persecuted or tortured. If no diplomatic assurances are received, the ICE memo

1 instructs officers to serve on the individual a Notice of Removal that includes the
2 intended country of removal. It instructs officers not to ask whether the individual is
3 afraid of removal to that country. It states that officers should “generally wait at least 24
4 hours following service of the Notice of Removal before effectuating removal” but that
5 “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more hours
6 after service of the Notice of Removal as long as the [noncitizen] is provided
7 reasonable means and opportunity to speak with an attorney prior to removal.”

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

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

Further support that petitioner faces a risk of punitive third-country removal comes from two declarations submitted in *Nguyen*, attached here as exhibits 3 and 4. They detail removals to third countries with little or no notice, as described in *Nguyen*, 796 F.Supp.3d at 736–37.

This practice and policy continues unabated. *See* Pranav Baskar and Hamed Aleaziz, *U.S. Deports Nine Migrants in Secret, Ignoring Legal Protections*, N.Y. Times (Feb. 14, 2026), <https://www.nytimes.com/2026/02/14/world/africa/us-secret-deportation-cameroon.html?smid=nytcare-ios-share> [<https://perma.cc/HX2S-MTZX>]. The article details how the individuals—who had court orders preventing them from being returned to their home countries—did not know they were being sent to Cameroon “until they were handcuffed and chained on a Department of Homeland Security flight[.]” *Id.* Since their arrival, they have been detained in a state-owned compound and told by authorities “they cannot leave the facility unless they agree to return to their home countries, from which they fled to escape war or persecution.”

Furthermore, the government is seeking to expand such removals. *See* Eileen Sullivan, et al., “Trump Wants to Make Deportation Deals. Autocrats Are Ready to Listen,” *The New York Times*, April 4, 2026, <https://www.nytimes.com/2026/04/04/world/africa/trump-deportation-africa-migrants.html> [<https://perma.cc/R7N9-2445>] (detailing how “[t]he Trump administration is in talks, records show, to send migrants to the Central African Republic and the Democratic Republic of Congo, two countries where the judicial systems are dysfunctional and government forces have been linked to torture and forced disappearances.”) That article further shows that “[m]igrants are being detained under an arrangement with Equatorial Guinea, an autocracy where torture is systemic. Others are being held in Eswatini, a monarchy with a history of human rights abuses, and South Sudan, which is teetering on civil war.” *Id.*

The article provides further details about the abuses removed individuals are subjected to. It also shows further examples, beyond those set forth above, of receiving countries accepting the individuals only temporarily, oftentimes to ultimately send them to their home countries, despite legal bars in the United States to their being removed to that country. It quotes Tanya S. Chutkan, a federal district judge in Washington, as stating, “What this appears to be is an end run around the United States’ obligations[.]” *Id.*

XII. The Law Governing Punitive Removal Practices

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

Importantly, the Court distinguished deportation, which the Court reasoned is “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion of a citizen from his country by way of punishment,” from government actions aimed at punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236. The Court explained that deportation “is but a method of enforcing the return to his own country of [a noncitizen] who has not complied with the conditions upon the performance of which the government of the nation, acting within its constitutional authority and through the proper departments, has determined that his continuing to reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730 (1893)). But the Court admonished that the government may not “declare unlawful residence within the country to be an infamous crime, punishable by deprivation of

1 liberty and property . . . unless provision were made that the fact of guilt should first be
2 established by a judicial trial.” *Id.* at 237.

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

5 **XIII. The Law Governing Injunctive Relief**

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

12 **Grounds for Relief**

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

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

17 Because Petitioner’s removal order became final on January 29, 2024, the
18 removal period has long since expired, and detention is no longer required under
19 8 U.S.C. § 1231. In addition, the presumptively reasonable period of six months has
20 passed. Petitioner spent approximately over four months detained after the final order of
21 removal, and he has spent over seven months in custody since being re-detained on
22 August 27, 2025.

23 There is “good reason to believe that there is no significant likelihood of removal
24 in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701. On information and
25 belief, ICE has taken no steps to remove Petitioner to Iran, and it certainly has not
26

1 informed him of any steps. As previously stated, ICE considers Iran one of only 15
2 “uncooperative” countries that does not facilitate return of its nationals. Ex. 1.

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

7 **Ground Two: Procedural Due Process**

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

9 Petitioner has a liberty interest in not being re-detained. Applying the three-
10 factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is
11 also high, because ICE’s previous release of him necessarily reflected a conclusion that
12 he was not a flight risk or a danger to the community. Here, as in *Ledesma Gonzalez v.*
13 *Bostock*, No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *8 (W.D. Wash. Oct. 7,
14 2025), “ICE revoked that release without any reassessment of those factors.” 2025 WL
15 2841574, at *8.

16 In addition, the cost to the government of providing a hearing is low, and it is
17 significantly outweighed by the other factors. His re-detention violated his due process
18 rights and was therefore unlawful.

19 As to Petitioner’s prayer for injunctive relief barring a new re-detention absent
20 due process, the requirements for injunctive relief are met. His prospective unlawful re-
21 detention would constitute an irreparable injury that could not be redressed by an award
22 of damages. Second, the balance of hardships is completely in Petitioner’s favor:
23 Petitioner risks unlawful re-detention, while Respondents suffer no hardship by being
24 prevented from following their unlawful re-detention practices. Finally, the public
25 interest affirmatively would be served by barring Respondents’ unlawful practice.
26

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

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

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

9 Respondents have not complied with their obligations under the implementing
10 regulation, and therefore Petitioner is entitled to release. On information and belief,

11 (a) Respondents did not make a determination either that, on account of
12 changed circumstances, there was a significant likelihood that Petitioner would be
13 removed in the reasonably foreseeable future or that Petitioner violated the conditions
14 of release;

15 (b) to the extent that Respondents made such a determination, they lacked an
16 adequate basis to do so and did not properly consider the factors specified in the
17 regulations;

18 (c) Respondents did not timely notify Petitioner in writing of the reasons for
19 revocation in a manner that Petitioner could reasonably respond to;

20 (d) Respondents did not conduct the required initial informal interview;

21 (e) Respondents did not afford Petitioner an opportunity to respond; and

22 (f) Respondents did not advise Petitioner of the right to request a review of
23 the detention and did not comply with the requirements for such review.

24 (g) The revocation determination was not made by an authorized official.

25 Petitioner’s re-detention therefore was contrary to Respondents’ regulations and
26 unlawful.

Ground Four: 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.

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

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

Furthermore, the requirements for injunctive relief are met. Petitioner's 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 removal to a third country, while Respondents suffer no hardship by being prevented from following their unlawful re-

1 detention practices. Finally, the public interest would affirmatively be served by barring
2 Respondents' unlawful practice.

3 In addition, the matter is ripe. The facts set forth above—including Respondents'
4 stated policy regarding third-country removals—make it reasonably likely that
5 Respondents would seek to remove Petitioner to a third country without complying
6 with their regulatory and constitutional obligations to provide Petitioner with notice and
7 an opportunity to be heard.

8 **Ground Five: Punitive Third-Country Banishment; Violation of Fifth and**
9 **Eighth Amendments**

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

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

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

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

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

1 broadcast those removals to demonize and dehumanize the individuals subjected to
2 these practices and strike fear in the immigrant community to send a message of
3 retribution and deterrence.

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

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

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

25 Furthermore, the matter is ripe. The facts set forth above—including
26 Respondents' stated policy regarding third-country removals and the unlikelihood that

1 Respondents could remove Petitioner to Iran even in the long term—make it reasonably
2 likely that Respondents would seek to remove Petitioner to a third country with a
3 punitive intent and punitive result.

4 **Prayer for Relief**

5 Petitioner respectfully requests that this Court:

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

24 *See Do v. Scott*, No. C25-2187RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5,
25 2025); *Tang*, 2025 WL 3551381, at *3.

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

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

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

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

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

15 DATED this 6th day of April 2026.

16 Respectfully submitted,

17 *s/ Alan Zarky*
18 Staff Attorney
19 Assistant Federal Public Defender's Office
20 Attorney for Daryoush Monazzami
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