IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

FASIL TAKLETSADIK,

Petitioner,

v.

ROBERT GUADIAN, *in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Washington Field Office;* MARKWAYNE MULLIN, *in his official capacity as Secretary of Homeland Security*; TODD BLANCHE, *in his official capacity as Attorney General of the United States*,

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

Case No. _____

INTRODUCTION

1. Petitioner Fasil Takletsadik ("Petitioner")[1] is an elderly man with serious health issues who was recently released on a habeas petition after suffering in detention for nearly a year. Yet today, ICE took him back into custody without any articulated reason.

2. More than a decade ago, Petitioner won final protection from deportation in the form of withholding of removal based on the Immigration Judge's ("IJ's") determination that he would more likely than not face persecution in his home country of Ethiopia. During the decades he has lived freely in the United States, Petitioner has complied with all legal requirements, including complying with any check-in requirements, holding steady employment, and avoiding any criminal activity.

[1] Petitioner's full name is Fasil Takletsadik. His A-number is [redacted].

3. Petitioner worked in the commissary of Andrews Air Force Base. However, on or around June 25, 2025, Petitioner attempted to renew his security pass to get on the base. Seeing that Petitioner had a work permit, not a green card, his employer called ICE, who re-detained Petitioner with no notice or opportunity to be heard. Petitioner's re-detention served no purpose other than to fill ICE's arbitrary arrest quotas.

4. ICE then transferred Petitioner to Jackson Parish Correctional Center, where it detained him for one year. In January 2026, Petitioner filed a habeas petition, challenging his prolonged detention, in the United States District Court for the Western District of Louisiana. *See Takletsadik v. Patterson*, No. 3:26-cv-517 (W.D. La. Jan. 6, 2026). The district court granted Mr. Takletsadik's habeas petition on June 30, 2026, *id.* at Dkt. 22 (W.D. La. June 30, 2026) and ordered his immediate release.

5. ICE released Mr. Takletsadik on July 1, 2026 on an OSUP. *See* Exh. E, OSUP. Petitioner returned to his longtime home in Silver Spring, MD. He complied with every term of his OSUP.

6. On August 10, 2026, Mr. Takletsadik received a call from an ICE officer. The ICE officer told Mr. Takletsadik that his ankle monitor was malfunctioning, and instructed Mr. Takletsadik to remain at home so that the officer could inspect his ankle monitor. When the ICE officer arrived at Mr. Takletsadik's home, the ICE officer took Mr. Takletsadik into custody and brought him to the Baltimore Hold Rooms.

7. To the extent that ICE intends to remove Petitioner to a third country, his removal without adequate screening of his fear of removal to that country would violate his due process rights. *See Mendoza Palacios*, 2026 WL 933319, at *5–7 (ruling that IJ review of negative third country screening is required under Fifth Amendment's due process clause); *Portela Hernandez*,

2026 WL 74043, at *10–12 (same); *Nolasco Renderos*, 2026 WL 40061, at *4–5 (same); *Cruz Medina v. Noem*, 806 F. Supp. 3d 536, 547–52 (D. Md. 2025) (same). Such removal to a dangerous and unstable third country would furthermore be unconstitutionally punitive in violation of the Fifth Amendment.

8. ICE is holding Petitioner pursuant to 8 U.S.C. § 1231, which governs the detention of noncitizens subject to a final order of removal that has been withheld or deferred under the INA or CAT. *See* 8 U.S.C. § 1231(a)(1)(B)(i). Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable. Under the IJ's order granting him relief in the form of withholding of removal under the INA, ICE cannot remove Petitioner to his country of origin. 8 C.F.R. § 1208.16; 8 U.S.C. § 1231(b)(3)(A). And while ICE may claim to have found a third country that will accept Mr. Takletsadik, ICE refuses to provide Mr. Takletsadik with any process before effectuating his removal. Thus, his *lawful* removal is not reasonably foreseeable.

9. Petitioner requests that this Court order his immediate release pursuant to *Zadvydas*, as it has repeatedly for noncitizens in similar situations. *See, e.g., Cordon Salguero v. Noem,* No. 25-cv-1626, ECF No. 20 (D. Md. June 18, 2026) (ordering release of noncitizen granted withholding under the INA because third country removal was not foreseeable); *Douglas v. Baker*, No. 25-cv-2243, 2025 WL 2997585 (D. Md. Oct. 24, 2025) (same); *Mendoza Palacios v. Mullin*, No. 26-cv-648, 2026 WL 933319 (D. Md. Apr. 7, 2026) (ordering additional process prior to third country removal or release of noncitizen with CAT protection); *Nolasco Renderos v. Baker*, No. 25-cv-3087, 2026 WL 40061 (D. Md. Jan. 7, 2026) (same); *Palacios v. Baker*, No. 25-cv-4045, 2026 WL 171690 (D. Md. Jan. 22, 2026) (ordering release of noncitizen with CAT protection);

Portela Hernandez v. Trump, No. 25-cv-1633, 2026 WL 74043 (D. Md. Jan. 9, 2026) (same for noncitizen with grant of withholding of removal under the INA).

10. ICE's re-detention of Petitioner just one month after being ordered by a federal court to release him further violates ICE's own regulations and his Fifth Amendment due process rights. ICE re-detained Petitioner despite his strict compliance with the terms of his OSUP during the month he was out of detention. ICE failed to comply with its own regulations for revocation of release, in violation of the Administrative Procedure Act ("APA") and due process, pursuant to *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Independently, Petitioner's re-detention without sufficient notice and an opportunity to be heard runs afoul of his Fifth Amendment due process rights. As a remedy for these procedural violations, Petitioner requests that he be released and placed back on the terms of supervision with which he was complying. *See Santamaria Orellana v. Baker*, No. 25-cv-1788, ECF No. 21 at 10 (D. Md. Aug. 25, 2025); *Cordon Salguero,* No. 25-cv-1626, ECF No. 20 at 1.

JURISDICTION & VENUE

11. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

12. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. at 687.

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at the Baltimore ICE Field Office.

PARTIES

14. Petitioner Fasil Takletsadik is a native and citizen of Ethiopia who was granted withholding of removal to that country on April 20, 2012. He is currently detained at the Baltimore ICE Field Office in Maryland.

15. Respondent Robert Guadian is the Field Office Director for the Washington Field Office of Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations. Petitioner is currently detained at the Baltimore Hold Room, within the jurisdiction of the Washington Field Office, and Respondent Guadian is Petitioner's immediate custodian. He is sued in his official capacity.

16. Respondent Markwayne Mullin is the Secretary of Homeland Security. The Department of Homeland Security ("DHS") oversees ICE, which is responsible for administering and enforcing the country's immigration laws. Secretary Mullin is the ultimate legal custodian of Petitioner. He is sued in his official capacity.

17. Respondent Todd Blanche is the Acting Attorney General of the United States. He oversees the immigration court system, which is housed within the Executive Office for Immigration Review ("EOIR") and includes all IJs and the BIA. He is sued in his official capacity.

STATEMENT OF FACTS

18. Mr. Takletsadik was born in Ethiopia in 1958. He is not a native or citizen of any other country. Exh. A, Takletsadik Decl, ¶ 1.

19. Mr. Takletsadik fled Ethiopia in 1979, when he was 21 years old. *Id.* ¶ 5. Mr. Takletsadik [redacted] he escaped to Germany. *Id.* ¶ 5. Mr. Takletsadik was granted asylum in Germany in 1982 and

eventually became a resident. *Id.* He worked for 16 years at an American military base in Germany. *Id.*

20. However, Mr. Takletsadik was subjected to racially motivated harassment in Germany. *Id.* ¶ 6. In May 1995, Mr. Takletsadik left Germany and came to the United States on a visitor visa. *Id.* ¶¶ 6–7.

21. Mr. Takletsadik applied for asylum in the United States. *Id.* ¶ 7. In August 2004, an immigration judge denied his application for asylum after concluding that he was firmly resettled in Germany and that he did not apply for asylum within one year of entry. *Id.* In around 2008, ICE detained Mr. Takletsadik. *Id.* ¶ 8. Several months later, in February 2009, Mr. Takletsadik moved to reopen his removal order based on changed circumstances. *Id.* ¶ 10. The BIA reopened his proceedings in June 2009. *Id.* The BIA recognized that Mr. Takletsadik was firmly resettled in Germany, but reopened proceedings so that he could seek withholding of removal and protection under the Convention Against Torture. *See id.*

22. On July 20, 2009, while Mr. Takletsadik was still pursuing his claim to relief from deportation, ICE released Mr. Takletsadik on his own recognizance, subject to ISAP reporting requirements. *Id.* ¶ 11; *see also* Exh. B, Order of Release on Recognizance. ICE placed an ankle monitor on Mr. Takletsadik, who returned to his home in Maryland. Exh. A, Takletsadik Decl., ¶ 11.

23. On April 20, 2012, an immigration judge granted Mr. Takletsadik withholding of removal under the INA. *Id.* ¶ 12; *see also* Exh. C, IJ Order. ICE waived appeal, and Mr. Takletsadik's grant of relief became final that day. Exh. C, IJ Order. ICE did not re-detain Mr. Takletsadik. Exh. A, Takletsadik Decl, ¶ 12. When Mr. Takletsadik was granted withholding of removal, his release became governed by 8 C.F.R. § 241.4. *See* 8 C.F.R. § 241.4(b)(3)

("[Noncitizens] granted withholding of removal under section 241(b)(3) of the Act . . . who are otherwise subject to detention are subject to the provisions of this part 241.").

24. Mr. Takletsadik applied for employment authorization based on his withholding of removal, and he maintained employment authorization from 2012 until his detention in 2025. Exh. A, Takletsadik Decl, ¶ 13. Mr. Takletsadik eventually got a job working in the commissary of Andrews Air Force base in Prince George's County, Maryland. *Id.* ¶ 15.

25. On June 25, 2025, Mr. Takletsadik attempted to renew his security pass to get on the base for work. *Id.* ¶ 16. Mr. Takletsadik showed the police officer at the base his work permit and social security card, and the officer called ICE to determine whether Mr. Takletsadik should be detained. *Id.* ICE agents took Mr. Takletsadik into custody and took him to the Baltimore Hold Room. *Id.* ¶ 17.

26. ICE held Mr. Takletsadik for four days at the Baltimore Hold Room. *Id.* An ICE officer told Mr. Takletsadik that ICE was not looking for him and was not sure why he was in custody. *Id.* ¶ 19. The officer told Mr. Takletsadik that ICE "might" be able to send him to another country. *Id.* Mr. Takletsadik told the officer that he feared return to Ethiopia, and the officer assured him that ICE would not send him to Ethiopia. *Id.* The officer asked Mr. Takletsadik for his name and address but did not provide Mr. Takletsadik with any reasons for the revocation of his release or give Mr. Takletsadik any opportunity to rebut those reasons. *Id.* ICE did not give Mr. Takletsadik any notice of revocation of release or any other paperwork. *Id.* ICE then transferred Mr. Takletsadik to the Jackson Parish Correctional Center. *Id.* ¶ 20.

27. After Mr. Takletsadik was detained for six months, he petitioned for a writ of habeas corpus in the United States District Court for the Western District of Louisiana. *See Takletsadik v. Patterson*, No. 3:26-cv-517 (W.D. La. Jan. 6, 2026). On June 30, 2026, the district

court agreed that Mr. Takletsadik's removal was not reasonably foreseeable and granted his petition. *See Takletsadik v. Patterson*, No. 3:26-cv-517, 2026 WL 1882857 (W.D. La. June 30, 2026).

28. ICE released Mr. Takletsadik on an OSUP on July 1, 2026. *See* Exh. D, OSUP. He returned home to his family and community in Silver Spring. Mr. Takletsadik complied with all of the terms of his OSUP. On July 8, 2026, Mr. Takletsadik attended an ICE check-in and was told to report back in September 2026.

29. One month later, ICE re-detained him by ruse. On August 10, 2026, Mr. Takletsadik received a call from an ICE officer. The ICE officer told Mr. Takletsadik that his ankle monitor was malfunctioning (it was not), and instructed Mr. Takletsadik to remain at home so that the officer could inspect his ankle monitor. When the ICE officer arrived at Mr. Takletsadik's home, the ICE officer took Mr. Takletsadik into custody and brought him to the Baltimore Hold Rooms.

30. ICE has not told Mr. Takletsadik why he was redetained. ICE has not commenced any fear process for Mr. Takletsadik. Upon information and belief, ICE has not served Mr. Takletsadik with any paperwork explaining the reasons for the revocation of his release.

31. Mr. Takletsadik is terrified to go to any third country that may *refoul* him to Ethiopia. Additionally, Mr. Takletsadik is terrified to go to any third country that would be incapable of providing him with adequate medical attention. Mr. Takletsadik has severe diabetes. Exh. A, Takletsadik Decl. ¶ 18; *see also* Exh. E, Takletsadik Medical Records. While detained, on several occasions, Mr. Takletsadik's blood sugar levels and blood pressure levels have been dangerously high. Exh. A, Takletsadik Decl., ¶ 22; *see also* Exh. E, Takletsadik Medical Records, at 10–15, 46–51, 17 (noting "critical lab" of glucose level of 440 mg/dL). In detention, Mr.

Takletsadik met with medical staff four times per day to receive his insulin and blood pressure medication. Exh. C-1, Takletsadik Decl., ¶ 22.

32. Mr. Takletsadik struggles with chronic back pain due to a malformation of his spine, called spinal stenosis. *Id.* ¶ 23. He reports that his back feels "terrible" and that if he sits in one place for half an hour, he feels debilitating pain. *Id.* Mr. Takletsadik is 67 years old.

33. Given Mr. Takletsadik's declining health and advanced age, Mr. Takletsadik would suffer extraordinarily should he be removed to a third country where he would be very likely imprisoned.

FRAMEWORK

I. Removal Proceedings and Fear-Based Relief

34. Noncitizens in regular removal proceedings can seek three main forms of relief based on their fear of returning to their home country: (1) asylum, (2) withholding of removal under the INA, and (3) withholding or deferral of removal under the CAT. Whether a noncitizen can apply for asylum, withholding, or deferral depends not only on their individual characteristics but also on their type of removal proceedings. Noncitizens may be ineligible for asylum for several reasons, including failure to apply within one year of entering the United States (the reason for Mr. Takletsadik's ineligibility). *See* 8 U.S.C. § 1158(a)(2).

35. There are fewer restrictions on eligibility for withholding of removal under the INA than asylum, though both forms of relief require a showing that the noncitizen's "life or freedom would be threatened in the proposed country of removal on account of race, religion, nationality, membership in a particular social group, or political opinion. 8 C.F.R. § 1208.16(b). If an IJ finds that a noncitizen has met the elements for withholding, a grant of relief is mandatory, not discretionary. *Id.*

36. When an IJ grants a noncitizen withholding under the INA, the IJ issues a removal order and simultaneously withholds that order with respect to the country or countries for which the noncitizen demonstrated a risk of persecution. *See Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2283 (2021). Once withholding under the INA is granted, both the noncitizen and DHS have the right to appeal that decision to the BIA within 30 days. *See* 8 C.F.R. § 1003.38(b). If both parties waive appeal or neither party appeals within the 30-day period, the grant of relief and the accompanying removal order become administratively final. *See id.* § 1003.39. The relief and removal order also become final if a party appeals and the BIA grants or affirms the grant of withholding under the INA. *See id.* § 1003.1(d)(7)(i).

II. Third Country Removal Procedures

37. Withholding of removal under the INA and CAT protection are country-specific forms of relief that prohibit the government from removing individuals to the specific country or countries for which they demonstrated the requisite risk of persecution or torture. *See* 8 U.S.C. § 1231(b)(3)(A). While ICE is authorized to remove noncitizens with withholding or deferral of removal to alternative ("third") countries, *see* 8 U.S.C. § 1231(b)(2), the INA has a specific hierarchy for countries to which the noncitizens may be removed. Noncitizens can be removed, for instance, first to a country they designate, certain to exceptions and limitations, *id.* § 1231(b)(2)(A)-(C); then to the country "of which the [noncitizen] is a citizen, subject, or national," *id.* § 1231(b)(2)(D); then to additional counties, subject to the order provided in § 1231(b)(2)(E)(i)–(vii). Regardless of which country the noncitizen or ICE chooses, however, removal is contingent on that country accepting the noncitizen. *See id.* § 1231(b)(2)(E).

38. When a noncitizen in ICE custody has a final grant of withholding or deferral of removal, an ICE Deportation Officer ("DO") typically sends requests for removal to a random

collection of three or more alternative countries. The request typically consists of a short email to the country's embassy, with an attached ICE Form I-241, "Request for Acceptance of Alien." In nearly every case, the embassies either do not respond or decline the request. *See e.g. Zavvar v. Scott*, No. 25-cv-2104, 2025 WL 2592543, at *7 (D. Md. Sep. 8, 2025) (Australia and Romania did not respond months after ICE sent Forms I-241 relating to Iranian petitioner for third country removal).

39. As a result, third country removals are exceedingly rare. As the Supreme Court noted in *Johnson v. Guzman Chavez*, in fiscal year 2017, "only 1.6% of [noncitizens] who were granted withholding of removal were actually removed to an alternative country." 594 U.S. at 537.

40. If ICE identifies a third country that will accept the noncitizen, ICE must provide that individual with additional process prior to effectuating removal to that country. *See Mendoza Palacios,* 2026 WL 933319, at *5 ("In other words, [n]oncitizens have a right to meaningful notice and opportunity to be heard before being deported to a third country.") (internal citation omitted); *Jama v. ICE*, 543 U.S. 335, 348 (2005) ("If [noncitizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, *see* 8 CFR §§ 208.16(c)(4), 208.17(a) (2004) . . ."); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (finding that "last minute" designation of alternative country without meaningful opportunity to apply for protection "violate[s] a basic tenet of constitutional due process"); *D.V.D. v. DHS*, No. 25-cv-10676-BEM, 2026 WL 521557, at *48 (D. Mass. Feb. 25, 2026) (finding 8 C.F.R. § 1231(b) requires notice and an opportunity to seek fear-based relief from third countries), *appeal docketed*, No. 26-1212 (1st Cir. Feb. 28, 2026).

41. The Government itself has repeatedly acknowledged a right to notice and opportunity to seek relief from third country removal, including recently before the U.S. Supreme Court. Transcript of Oral Argument at 33, *Riley v. Bondi*, 23-1270 (2025) ("We would have to give the person notice of the third country and give them the opportunity to raise a reasonable fear of torture or persecution in that third country."); *see also* Transcript of Oral Argument at 20–21, *Guzman Chavez*, 594 U.S. 523.

42. Despite these Government admissions, the limited number of recent third country removals that do occur are characterized by a lack of notice and circumvention of review. Beginning in early 2025 and elucidated in subsequent memos in February and March 2025, DHS instituted a policy of removing or seeking to remove noncitizens to third countries without providing notice or an opportunity to contest that removal, even if the noncitizen fears persecution or torture in that country. *See D.V.D.*, 2026 WL 521557, at *7, 14, 51 n.7. Instead, if the State Department receives diplomatic assurances from the third country that deported individuals will not be persecuted or tortured, DHS removes the noncitizen without additional process. *Id.* at *3. If assurances are not available, DHS issues the noncitizen a notice of intent to remove to the third country. *Id.* Upon receiving a third country notice, a noncitizen who articulates a fear of torture or persecution in that country should be provided with a third country fear screening before a U.S. Citizenship and Immigration Services ("USCIS") Asylum Officer ("AO"). *Id.* Unlike similar fear interviews, such as Reasonable Fear Interviews ("RFIs") and Credible Fear Interviews ("CFIs"), if the result of the third country fear screening is negative, the Government has maintained there is no mechanism for IJ review. *See id.*; 8 C.F.R. §§ 208.30(a)–(g) (outlining CFI procedure and IJ review), 208.31(a)–(g) (outlining RFI procedure and IJ review).

43. While these policies were temporarily enjoined by the District of Massachusetts and the First Circuit in the *DVD* litigation, on June 23, 2025, the U.S. Supreme Court stayed the district court's preliminary injunction without discussion of the merits of the case. *See DHS v. D.V.D.*, No. 24A1153 (S. Ct. Jun. 23, 2025). Subsequently, on February 25, 2026, the district court granted summary judgment to the plaintiffs in *DVD*, ruling that the Government's third country removal policy violates the INA and due process and vacated the policy. *D.V.D.*, 2026 WL 521557. The First Circuit recently granted a stay of the district's court ruling pending appeal. *D.V.D. v. DHS*, No. 26-1212, ECF No. 2 (1st Cir. March 16, 2026).

44. Independent of *DVD*, this Court and other courts in this Circuit have repeatedly ruled that due process requires IJ review of negative third country fear screenings prior to removal. *See e.g. Portela-Hernandez*, 2026 WL 74042, *10–12 (D. Md. Jan. 9, 2026); *Cruz Medina*, 806 F. Supp. 3d at 547–52.

III. Detention of Noncitizens Granted Withholding or Deferral of Removal.

A. Statutory Framework

45. Section 1231 of the INA governs the detention of noncitizens "during" and "beyond" the "removal period." 8 U.S.C. § 1231(a)(2)–(6). As relevant here, the "removal period" begins once a noncitizen's removal order "becomes administratively final." 8 U.S.C. § 1231(a)(1)(B). The removal period lasts for 90 days, during which ICE "shall remove the [noncitizen] from the United States" and "shall detain the [noncitizen]" as it carries out the removal. 8 U.S.C. § 1231(a)(1)–(2).[2] If ICE does not remove the noncitizen within the 90-day

[2] The removal period runs from the date the noncitizen's removal order becomes administratively final, even if the noncitizen is released prior to the 90-day period ending. *Umanzor-Chavez v. Noem*, No. 25-cv-1634, 2025 WL 2467640, at *2 (D. Md. Aug. 27, 2025); *Cordon-Salguero*, No. 25-cv-1626, ECF No. 20 at 32.

removal period, the noncitizen "*may* be detained beyond the removal period" if they meet certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added). If the removal period is not extended, the noncitizen may be released on an OSUP, subject to conditions of release. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.5(a)–(b). Under the statute, DHS only provides work authorization to released noncitizens with final removal orders if it finds that the noncitizen "cannot be removed due to the refusal of all countries designated . . . to receive" them or that their removal "is otherwise impracticable or contrary to the public interest." 8 U.S.C. § 1231(a)(7); *see also Solis Nolasco v. Noem*, No. 25-cv-3847, 2026 WL 25002, at *5 (D. Md. Jan. 5, 2026) ("Moreover, by granting [petitioner] an Employment Authorization Document in July 2024, the Attorney General determined that [he] could not be removed either because the countries designated in his removal order refused him or because his removal "is otherwise impracticable or contrary to the public interest.").

46. To avoid "indefinite detention" that would raise "serious constitutional concerns," the Supreme Court in *Zadvydas* construed § 1231(a)(6) to contain an implicit time limit. 533 U.S. at 682. The Court held that § 1231(a)(6) authorizes detention only for "a period reasonably necessary to bring about the [noncitizen]'s removal from the United States." *Id.* at 689. Six months of post-removal order detention is considered "presumptively reasonable." *Id.* at 701.[3]

47. At that point, when the noncitizen provides "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the

[3] This Court has held that the six-month period contemplated under *Zadvydas* does not restart upon re-detention, even if the Petitioner is not detained for the six months after their order of removal became administratively final. *See Palacios Baker*, 2026 WL 171690, at *3–4 (six-month period for *Zadvydas* ran immediately after the order of removal became administratively final and did "did not restart upon [Petitioner's] re-detention."); *Solis Nolasco*, 2026 WL 25002, at *4 n.4 (same); *Zavvar*, 2025 WL 2592543, at *4 (same).

Government to justify continued detention with "evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701.

48. However, the Supreme "Court 'did not say that the six-month presumption is irrebuttable, and there is nothing inherent in the operation of the presumption . . . that requires it to be irrebuttable.'" *Munoz-Saucedo*, 789 F. Supp. 3d at 398 (citing *Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008)). Rather, "the presumption scheme merely suggests that the burden the detainee must carry within the first six months of post-order detention is a heavier one than after six months has elapsed." *Id.*; *see also Zavvar,* 2025 WL 2592543, at *5 ("Indeed, in *Zadvydas,* the Court noted that such presumptions are intended to 'guide lower court determinations,' without staling that they mandate a particular result or establish a bright-line rule."); *Portela-Hernandez,* 2026 WL 74042, at *8 ("The *Zadvydas* presumption is rebuttable, and if [Petitioner] can prove that his removal is not reasonably foreseeable, then he can overcome that presumption.") (internal citations omitted); *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1093 (C.D. Cal. 2020) ("*Zadvydas* established a 'guide' for approaching detention challenges, not a categorical prohibition on claims challenging detention less than six months."); *Ali v. DHS*, 451 F. Supp. 3d 703, 708 (S.D. Tex. 2020) ("Whereas the *Zadvydas* Court established a presumption that detention that exceeded six months would be unconstitutional, it did not require a detainee to remain in detention for six months or to prove that the detention was of an indefinite duration before a habeas court could find that the detention is unconstitutional.").

B. Regulations on Post-Removal Order Detention

49. DHS regulations provide that, before the end of the 90-day removal period, the local ICE field office with jurisdiction over the noncitizen's detention must conduct a custody review to determine whether the noncitizen should remain detained. *See* 8 C.F.R. § 241.4(c)(1),

(h)(1), (k)(1)(i). ICE is required to provide the noncitizen and, if applicable, their counsel with approximately 30 days' notice prior to such custody reviews, to allow an opportunity to submit evidence in support of release. *Id.* § 241.4(d)(3), (h)(2). The regulations further require that custody decisions be provided to counsel. *Id.* § 241.4(d)(3). If the noncitizen is not released following the 90-day custody review, jurisdiction transfers to ICE Headquarters ("ICE HQ"), *id.* § 241.4(c)(2), which must conduct a custody review before or at 180 days. *Id.* § 241.4(k)(2)(ii). In making all custody determinations, ICE considers several factors, including whether the noncitizen is likely to pose a danger to the community or a flight risk if released. *Id.* § 241.4(e). If the factors in § 241.4 are met, ICE must release the noncitizen on an OSUP. *Id.* § 241.4(j)(2).

50. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established "special review procedures" to determine whether detained noncitizens with final removal orders are likely to be removed in the reasonably foreseeable future. *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4's custody review process remained largely intact, subsection (i)(7) was added to include a supplemental review procedure that ICE HQ must initiate when "the [noncitizen] submits, or the record contains, information providing a substantial reason to believe that removal of a detained [noncitizen] is not significantly likely in the reasonably foreseeable future." *Id.* § 241.4(i)(7).

51. Under this procedure, ICE HQ evaluates the foreseeability of removal by analyzing factors such as the history of ICE's removal efforts to any third countries being considered. *See id.* § 241.13(f). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on "special circumstances," it must justify the detention based on narrow grounds, such as national security or public health concerns, *id.* § 241.14(b)–(d), or by

demonstrating by clear and convincing evidence before an IJ that the noncitizen is "specially dangerous." *Id.* § 241.14(f).

C. Regulations on Revocation of Release

52. For noncitizens released on orders of supervision issued under § 241.13, the regulations outline the protections ICE must provide to released noncitizens whom they seek to re-detain. *Id.* § 241.13(i).

53. First, the regulations specify when ICE may revoke an order of supervision. Under § 241.13(i), ICE may revoke an order of supervision in only two circumstances: when the noncitizen violates a condition of release, or "if, on account of changed circumstances, [ICE] determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." *Id.* § 241.13(i)(1)–(2).

54. Second, the regulations specify certain procedures ICE must follow before revoking an order of supervision issued under § 241.13. The regulations state that, "[u]pon revocation," "the [noncitizen] must be notified of the reasons for revocation of his or her release." *Id.* § 241.13(i)(3). Then, ICE must "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 the revocation stated in the notification." *Id.* During the interview, the noncitizen must be given the opportunity to "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." *Id.* Following the interview, ICE must "evaluat[e] . . . any contested facts relevant to the revocation and . . . determin[e] whether the facts as determined warrant revocation and further denial of release." *Id.*

55. ICE may revoke a noncitizen's OSUP and take him back into custody only after meeting these requirements.

56. If the noncitizen remains in custody after the notice and interview, ICE must afford him with regular post-removal order custody reviews. *Id.*; § 241.4(i), (j), (k); *see also* § 241.13(i)(2) (stating that if the noncitizen "is not released from custody following the informal interview . . . , the provisions of § 241.4 shall govern the [noncitizen's] continued detention pending removal"). ICE must also allow the noncitizen to "submit a request for review of his or her detention under this section, six months after [ICE's] last denial of release under this section." *Id.* § 241.13(j).

ARGUMENT

I. Under the Due Process Clause, Petitioner Is Entitled to Notice of Third Country Removal and An Opportunity to Express Fear That Includes IJ Review.

57. To the extent that ICE plans on removing Petitioner to a third country, due process requires that he receive sufficient notice and an opportunity to be heard as to any fear-based claims for that country. This includes a fear screening by an AO (regardless of whether the third country has given "assurances") *and* IJ review of any negative third country screening. *See D.V.D.*, 2026 WL 521557, at *34 & n.86, 35–37; *Mendoza Palacios*, 2026 WL 933319, at *5–7; *Portela Hernandez*, 2026 WL 74043, at *10–12; *Nolasco Renderos*, 2026 WL 40061, at *4–5; *Cruz Medina*, 806 F. Supp. 3d 536, 547–52.

58. Third-country removal is permitted under 8 U.S.C. § 1231(b)(2), but like all removal, it is subject to the requirements of procedural due process. "It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings." *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (internal quotation marks omitted). As the Fourth Circuit explained in *Guzman Chavez v. Hott*, "precisely because withholding of removal is

country-specific, as the government says, if a noncitizen who has been granted withholding as to one country faces removal to an alternative country, then she must be given notice and an opportunity to request withholding of removal to *that* particular country." 940 F.3d 867, 879 (4th Cir. 2019) (emphasis in original), *rev'd on other grounds*, 594 U.S. 523 (2021).

59. Here, as both this Court and the Eastern District of Virginia have ruled, ICE's plan to deport Petitioner to a third country, where he could be persecuted, tortured, or killed, without sufficient process, including IJ review of his fear claim, violates Petitioner's procedural due process rights under the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976):

> 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.

See Mendoza Palacios, 2026 WL 933319, at *5–7; *Portela Hernandez*, 2026 WL 74043, at *10–12; *Nolasco Renderos*, 2026 WL 40061, at *4–5; *Cruz Medina*, 806 F. Supp. 3d at 547–52; *Benitez Pineda v. Noem,* No. 1:25-cv-2337, ECF No. 17 at 11–14 (E.D. Va. March 2, 2026); *Bautista Serpas*, No. 1:25-cv-02369, ECF No. 15 at 13–15; *Rivas Rojas v. Noem*, No. 1:25-cv-01624, ECF No. 18, at 1–2 (E.D. Va. Nov. 11, 2025) (same), *habeas granted*, ECF No. 26 (Dec. 18, 2025).

60. First, "Petitioner has established that he has an interest in not being removed to a country where he alleges he would face persecution or torture." *Cruz Medina*, 806 F. Supp. 3d at 549. "That is precisely the type of interest that courts consistently have held is significant enough to justify procedural protections to ensure that individuals who are actually entitled to withholding of removal under § 1231(b)(3) or the Convention Against Torture receive such protection." *Id.*

61. Second, the risk of erroneous deprivation without IJ review is high. "DHS regulations themselves to conclude that, where a person alleges that he would be persecuted or tortured if removed to a particular country, a single review by an asylum officer creates an unacceptably high risk of erroneous deprivation." *Id.*; *see* 8 C.F.R. § 208.30(g) (providing for IJ review of negative CFIs), § 208.31(g) (providing for IJ review of negative RFIs). There is no reason why third country removal should be treated differently.

62. Third, the Government has a negligible interest in not providing additional process in the form of IJ review. "[S]ome delay and administrative burden is inherent in due process" and "DHS's own regulations [providing for IJ review for RFIs and CFIs] confirm that any applicable delay and burden is not only justified, but minimal." *Id.* at 551. The minimal additional burden on the Government is far outweighed by the individuals' enormous risk of being deported to face persecution, torture, or death. Thus, due process requires a IJ review of any negative third county fear screening for Petitioner prior to his third country removal.

63. Petitioner's due process claims stand in even sharper relief when considering the possibility that the Government will attempt to remove Petitioner to a third country with no notice or process whatsoever, based on "diplomatic assurances." Petitioner must be entitled to at least as much process as that provided to individuals who have significantly fewer ties to the U.S. *See Sagastizado Sanchez v. Noem*, 802 F. Supp. 3d 992, 1011–12 (S.D. Tex. 2025) ("Petitioner's argument that he cannot be entitled to lesser protections now than he would have been upon his initial entry or upon a future commission of felony illegal reentry into the United States carries significant weight."). The process Petitioner requests—a fear interview and IJ review of that interview—is indisputably available to noncitizens who have just been caught crossing the border unlawfully, 8 C.F.R. § 1003.42, and to noncitizen who has just been caught re-entering the U.S.

unlawfully after a prior removal. 8 C.F.R. § 1208.31(g). It follows that Petitioner, who has resided in the U.S. since 1995 and has served the U.S. military as a baseworker for more than 15 years must be entitled to receive at least as much, if not more process when facing removal to a country to which he has no connection. Any claim that Petitioner is entitled to *less* due process than a noncitizen "at the threshold of initial entry," *DHS v. Thuraissigiam*, 591 U.S. 103, 107 (2020), simply because ICE received undisclosed and generalized "diplomatic assurances" from a third country holds no water.[4]

64. The evident insufficiency of alleged "diplomatic assurances" has led several courts to conclude that third country removal based solely on those assurances and without at least a fear interview violates due process. *See, e.g., Rea-Hernandez v. Bondi*, No. 2:25-cv-2609, 2026 WL 322874, at *9 (W.D. Wash. Feb. 6, 2026) (enjoining petitioner's removal to any alternative country without adequate notice and review, where petitioner had received fear screening as to Mexico but not for other alternative countries); *Elshourbagy v. Bondi,* No. 2:25-cv-2432, 2025 WL 3718993, at *8 (W.D. Wash. Dec. 23, 2025) (holding that third country removal based on assurances "fall[s] far short of what courts in this District and Circuit have held that due process requires.").

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[4] Under the Convention Against Torture, the U.S. Government is prohibited from removing an individual to a country where they face the requisite likelihood of torture. *See* Foreign Affairs Reform and Restructuring Act ("FARRA") of 1998, Pub. L. No. 105-227, Div. G., Title XXII, § 2242, 112 Stat. 2681, 2681–823, codified as note to 8 U.S.C.A. § 1231; *see also* 8 C.F.R. § 1208.16. This assessment is always based on the individual's specific circumstances. *See Rodriguez-Arias v. Whitaker*, 915 F.3d 968, 974 (4th Cir. 2019) ("When a man's life is on the line, he is entitled to know that the court deciding *his claim* reviewed all *his evidence*, understood it, and has a cogent, articulable basis for its determination that *his evidence* was insufficient.") (emphasis added); *D.V.D.*, 2026 WL 521557, at *34–36 ("[8 C.F.R. § 208.18(c)(1)] does not permit generalized, country-wide, 'blanket' assurances."); *Khouzam v. Att'y Gen. of U.S.*, 549 F.3d 235, 254–59 (3d Cir. 2008) (requiring an individualized determination as to the reliability of diplomatic assurances and holding that due process required a chance to challenge the reasoning and evidence behind that determination).

II. Mr. Takletsadik's Removal to a Third Country Where He Would Be Imprisoned or *Refouled* Would Be Punitive, in Violation of the Fifth and Eighth Amendments to the U.S. Constitution.

65. Additionally, Petitioner's third country removal would likely be punitive, in light of his significant medical issues and the likelihood that he would be removed to a country where he would be imprisoned or *refoul*ed to Ethiopia. The U.S. Constitution prohibits punitive removals, because the United States government may not impose or inflict a punishment for violations of civil immigration law. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896) (the government cannot attach punitive conditions to deportation absent a criminal charge, trial in a court of law, and the protections of the Fifth, Sixth, and Eighth Amendments). Deportation is generally not considered a punishment as long as it "is but a method of enforcing the return to [her] own country of [a noncitizen] who has not complied with the conditions" of her remaining in the United States. *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730 (1893)). Notably, this language does not discuss third-country removal, which stands in stark contrast to "return to [one's] own country." *Id.*

66. In contravention of this principle, the United States government has arranged for third countries to receive deportees and imprison them on arrival, sometimes indefinitely, and often in abhorrent conditions. *See Abrego Garcia v. Noem*, 777 F. Supp. 3d 501, 509 (D. Md. 2025) ("ICE forcibly transported Abrego Garcia to the Terrorism Confinement Center ('CECOT') in El Salvador, a notorious supermax prison known for widespread human rights violations.").

67. Where removal to a third country will be followed by imprisonment, courts have found it to be unconstitutionally punitive. *See, e.g., Nguyen v. Scott*, 796 F. Supp. 3d 703, 735 (W.D. Wash. Aug. 21, 2025) ("Petitioner has shown a likelihood of success on the merits that Respondents' practice of third-country removal paired with imprisonment violates due process.");

Abubaka v. Bondi, No. 25-1889, 2025 WL 3204369, at *8 (W.D. Wash. Nov. 17, 2025) ("[T]he Court orders respondents not to remove petitioner to any third country where he is likely to face imprisonment upon arrival.").

68. Additionally, the United States government has knowingly sent people to third countries that have directly *refoul*ed them to the countries where they were already granted protection, in violation of the CAT. Indeed, Supreme Court justices have noted many examples of people being sent to an alternative country just for that country to send them to the country from which they were granted protection. See *DHS v. D.V.D.*, 145 S. Ct. 2153, 2154 (2025) (Sotomayor, J., dissenting) (describing deportation without notice to Mexico of a man granted CAT deferral against removal to Guatemala; Mexico promptly sent him on to Guatemala without regard to the CAT decision of a United States immigration judge); *see also* Pranav Baskar & Hamed Aleaziz, *U.S. Deports Nine Migrants in Secret, Ignoring Legal Protections*, NYTimes (Feb. 14, 2026), available at https://www.nytimes.com/2026/02/14/world/africa/us-secret-deportation-cameroon.html ("Eight of nine migrants deported to Equatorial Guinea were sent back to their home countries, including one with an asylum claim, in another unpublicized agreement. In September, Ghana deported at least three people, despite their having removal protections.").

69. Mr. Takletsadik is terrified that ICE may remove him to a third country where he would be imprisoned, tortured, or directly *refoul*ed to Ethiopia. Any removal of Mr. Takletsadik to a third country where he would be imprisoned would constitute punishment in light of his severe medical conditions, including severe diabetes, hypertension, and spinal stenosis. Mr. Takletsadik's removal to any country where he does not have access to adequate medical resources would violate his right to be free from punishment.

III. Mr. Takletsadik's Lawful Removal is Not Reasonably Foreseeable.

70. Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, 533 U.S. 678. His removal order has been final for more than 14 years, since April 20, 2012, and his removal is not reasonably foreseeable given Petitioner's protection from removal to Ethiopia and the unlikelihood of third country removal.

71. 8 U.S.C. § 1231(a), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the [noncitizen's] removal from the United States." 533 U.S. at 689. Petitioner cannot be deported to Ethiopia, the only country of which he is a citizen, because he has a final grant of protection from removal there. ICE has not identified any other countries to which it seeks to remove Petitioner and there is no indication that Petitioner could, in fact, be feasibly removed to any country. Based on the data mentioned *supra*, there is less than a 2% chance of deportation to a third country for a noncitizen like Petitioner, who was granted withholding of removal under the INA. Even if ICE does identify such a country, it would be legally obligated to inform Petitioner of the identified country. ICE would then be required to give Petitioner the opportunity to seek fear-based relief from removal to that country, further prolonging their proceedings and detention. *See Munoz-Saucedo*, 789 F. Supp. 3d at 398 (noting that third country removals have "been historically rare" and that the petitioner was entitled to further proceedings to seek fear-based relief, even if a third country for removal were to be found); *Solis Nolasco*, 2026 WL 25002, at *5 (noting that petitioner was entitled to further proceedings as to a third country).

72. Accordingly, Petitioner will not be removed from the United States in the "reasonably foreseeable future" because (1) he cannot be deported to his home country due to his grant of withholding of removal under the INA (2) ICE has historically managed to remove

only a tiny fraction of noncitizens granted withholding or CAT to alternative countries, and that continues to be the current reality; (3) to Petitioner's knowledge, ICE has not been able to secure travel documents for Petitioner to a third country; and (4) removing Petitioner to any alternative country would require additional proceedings. As such, Petitioner's continued detention violates 8 U.S.C. § 1231(a).

73. This Court has found multiple times that noncitizens in a substantially similar positions had shown that their detention violated 8 U.S.C. § 1231(a), even though their post-removal order detention had not yet reached six months. *See Douglas,* 2025 WL 2997585, at *5 (ruling that petitioner's three-and-a-half-month detention was unlawful under *Zadvydas*); *Zavvar*, 2025 WL 2592543, at *8 (same for petitioner who had been detained less than three months).[5] Other Courts in this Circuit have similarly granted relief for petitioners whose detention was shorter than six months. *See, e.g., Bautista Serpas v. Simon*, No. 1:25-cv-02369, ECF No. 15 at 5–8 (E.D. Va. Feb. 3, 2026) (ruling that Petitioner's less-than-two-month detention was unlawful under *Zadvydas* because he rebutted the six-month presumption where he had a final grant of withholding to El Salvador, the record was unclear as to whether Mexico had consented to removal, and "even if Mexico agrees to accept Petitioner, he is still entitled to [IJ] review of his fear-of-removal claim"); *Jimenez v. Crawford*, No. 1:25-cv-1199, ECF Nos. 16, 17 at 22–23 (E.D. Va. Aug. 20, 2026) (ordering release for Petitioner with final CAT protection as to El Salvador

[5] Petitioner recognizes that several jurists in this Court have concluded that it is premature to file for habeas relief under *Zadvydas* prior to the six-month mark. *See e.g. Umanzor-Chavez v. Noem*, No. 25-cv-1634, 2025 WL 2467640, at *4 (D. Md. Aug. 27, 2025) (Gallagher, J.); *Ghamelian v. Baker*, No. 25-cv-2106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) (Gallagher, J.); *Mosberian Tanha v. Warden, Baltimore Detention Facility*, No. 25-cv-2121, 2025 WL 2062181, at *7–8 (D. Md. July 22, 2025) (Rubin, J.); *IVI v. Baker*, No. 25-cv-1572, 2025 WL 1811273, at *3 (D. Md. July 1, 2025) (Bredar, J.). Petitioner respectfully submits that the analysis regarding the rebuttable nature of the six-month presumption in *Zadvydas* performed by this Court in *Zavvar*, 2025 WL 2592543, at *5 is a more accurate interpretation of *Zadvydas*.

detained for approximately five months where Mexico had declined to accept him and Government was awaiting response from Guatemala with no estimated timeframe for decision).

74. As noted *supra*, ICE's chances of removing an individual with withholding or deferral of removal to a third country are incredibly low. In this case, ICE has failed to even identify a potential third country for removal to Petitioner.

75. Even if a third country is identified, ICE would still need to take other steps to effectuate removal, including obtaining the country's approval to accept Petitioner, which would entail potentially arranging an interview for Petitioner with officials of that third country, and obtaining travel documentation for Petitioner. *See, e.g., Jama*, 543 U.S. at 341 (noting the need for acceptance from foreign governments before a third country removal); *Manago v. Carter*, No. 25-cv-3183, 2025 WL 2841209, at *2 (D. Kan. Oct. 7, 2025) (noting the need for identified countries to respond to requests for third country removal); *Tran v. Baker,* No. 1:25-cv-01598-JRR, 2025 WL 2085020, at *1–2 (D. Md. July 24, 2025) (noting scheduled interview with officials of foreign government); *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025) (noting need for travel documents); *Tran v. Scott*, No. 2:25-cv-01886, 2025 WL 2898638, at *4 (W.D. Wash. Oct. 12, 2025) (same); *Liu v. Carter*, 25-cv-3036, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025) (same). Petitioner would also need to be medically cleared to fly. Petitioner's back deformity prevents him from sitting for more than 30 minutes at a time, and he has severe diabetes, for which he takes medication multiple times per day. ICE has not indicated that it will be able to medically clear Mr. Takletsadik for flying.

76. Given this reality, it strains credulity to expect that ICE will be able to remove Petitioner to some arbitrarily-chosen third country, as many countries have recently and repeatedly declined to accept the deportation of similarly situated individuals. Like other individuals recently

released under similar circumstances,[6] Petitioner is not a citizen of, has never lived in, and has no connection to *any* country besides Ethiopia, to which he won withholding of removal under the INA.

77. Even in the highly unlikely scenario that an alternative country notifies ICE of its willingness to accept Petitioner despite his advanced age and medical conditions—and not accounting for the additional logistics of obtaining travel documents to that country—ICE would still have to give Petitioner an opportunity to seek fear-based protection with respect to that country. *See* 8 C.F.R. § 241.8(e); *Santamaria Orellana v. Baker*, No. 25-cv-1788-TDC, 2025 WL 2444087, at *8 (D. Md. Aug. 25, 2025) (holding interview is required after a noncitizen expresses fear of a third country) (citing *Tomas-Ramos v. Garland*, 24 F.4th 973, 977 (4th Cir. 2022)); *Manago*, 2025 WL 2841209, at *2 (finding that third country removal is not possible if the petitioner has a credible fear of return to that country).

78. Petitioner fears deportation to many countries and would be entitled to further proceedings to demonstrate that fear. If an AO were to find that Petitioner demonstrated the requisite possibility of persecution or torture at the fear interview regarding an identified third country, Petitioner would seemingly face two possibilities: first, he could go through additional proceedings before an IJ in which he would *again* seek to demonstrate his eligibility for fear-based relief, this time in regard to the identified third country. This would, in essence, place Petitioner back at the starting line for a judicial process that already took many years with respect to Ethiopia. Alternatively, ICE could attempt to avoid further proceedings before an IJ by pivoting and

[6] *See, e.g., Constant v. Perry,* No. 1:25-cv-1916, ECF No. 25 (E.D. Va. Feb. 11, 2026); *Montezano Martinez v. Perry,* No. 1:25-cv-02274, ECF No. 22 (E.D. Va. Feb. 6, 2026); *Alababseh v. Perry,* No. 1:25-cv-1973, ECF No. 22 (E.D. Va. Nov. 21, 2025); *Iakubov v. Figueroa*, 2025 WL 2731355 (D. Az. Sep. 25, 2025); *Zhuzhiashvili v. Carter*, 2025 WL 2803341 (D. Ks. Oct. 1, 2025); *Zhuzhiashvili v. Carter,* No. 25-cv-3189, 2025 WL 2837716, at *3 (D. Kan. Oct. 7, 2025).

beginning a new search for yet *another* third country to which to send Petitioner. Either scenario constitutes the exact kind of bureaucratic whack-a-mole effect that *Zadvydas* construed the INA to avoid.

79. Should ICE decline to provide Petitioner with an adequate fear process, that would also prolong his detention under *Zadvydas*, and justify his immediate release. *See* Exh. F, Transcript of *Lopez de Barahona v. Noem*, No. 1:26-cv-561-DLB (D. Md. Apr. 16, 2026) at 17 ("Because the government will not provide Lopez with the process she is required to receive before she is removed to a third country, it follows that her removal cannot be reasonably foreseeable.").

80. Release is the appropriate remedy for a *Zadvydas* violation. 533 U.S. at 700–01 (describing release as an appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release "subject to . . . terms of supervision"); *see also Douglas,* 2025 WL 2997585, at *6 (ordering release subject to conditions); *Portela Hernandez,* 2026 WL 74043, at *14 (ordering release); *Zavvar,* 2025 WL 2592543, at *8 (same); *Munoz-Saucedo,* 789 F.Supp.3d at 400 (ordering release under appropriate conditions); *Constant*, No. 1:25-cv-1916, ECF No. 25 (same); *Jimenez*, No. 1:25-cv-1199, ECF No. 16 (same); *Montezano Martinez*, No. 1:25-cv-02274, ECF No. 22 (same); *Bautista Serpas*, No. 1:25-cv-02369, ECF No. 15 (same); *Alababseh*, No. 1:25-cv-1973, ECF No. 22 (same).

IV. ICE's Re-Detention and Continued Detention of Petitioner Without Sufficient Process Violates the Due Process Clause.

81. The lack of process afforded Petitioner to challenge his re-detention violates his procedural due process rights under the *Mathews* framework. *See Miranda v. Garland,* 34 F.4th 338, 358–39 (4th Cir. 2022) (applying *Mathews* to review immigration detention); *Morrissey v. Brewer*, 408 U.S. 471, 480–82 (1972) (holding that revocation of parole involves significant values within the protection of Due Process and termination of that liberty requires, among other

protections, written notice of the claimed violations and an informal hearing to ensure that revocation is based on verified facts).

82. Here, application of the *Mathews* test shows that Petitioner's re-detention without any meaningful review is unconstitutional. First, "the private interest at stake is freedom from detention, a liberty interest which 'lies at the heart of the liberty that [the Due Process] Clause protects.'" *Miranda,* 34 F.4th at 359 (citing *Zadvydas*, 533 U.S. at 690). Thus, the first *Mathews* factor undoubtedly favors Petitioner.

83. The second *Mathews* factor, the risk of erroneous deprivation and value of additional safeguards, also heavily favors Petitioner. Petitioner has received no explanation of the reasons for revocation of his supervised release, no signed notice of revocation, and no opportunity to present evidence in opposition of re-detention.

84. A sister court has recognized the shortcomings of the parole process, which like the re-detention and post-order custody review procedures, consists solely of ICE's own internal, discretionary review of detention. *See Mbalivoto v. Holt*, 527 F. Supp. 3d 838, 848 (E.D. Va. 2020) (ruling that parole procedures were insufficient because "parole . . . has highly restrictive criteria and limited transparency, is subject to the unreviewable discretion of the Attorney General, and has no opportunity for an actual hearing before a neutral decisionmaker."); *Leke v. Hott*, 521 F. Supp. 3d 597, 605 (E.D. Va. 2021) (rejecting federal respondents' argument that "seek[ing] parole at the unreviewable discretion of the [government]" is sufficient process for prolonged detention as "both unrealistic and unpersuasive" given "highly restrictive" criteria).

85. The fact that Petitioner has complied with all ICE requirements for decades before his detention in 2025, and more recently for the month after his release on July 1, makes his re-detention particularly problematic. *See Solis Nolasco,* 2026 WL 25002, at *5 (finding no

significant likelihood of removal in part due to petitioner's year-long OSUP compliance, during which time the government took no steps to remove him); *Douglas,* 2025 WL 2997585, at *3 (same for petitioner who complied with OSUP for nine years); *Perera v. Jennings*, 598 F. Supp. 3d 736, 746 (N.D. Cal. 2022) (ruling that petitioner's detention without bond pursuant to 8 U.S.C. § 1226(c) was unconstitutional under *Mathews* where ICE first detained him years after his release from criminal custody and petitioner kept a clean record while released).

86. Third, the Government's interest and the administrative burden of additional procedures further favors Petitioner. The procedures set forth in the relevant regulations regarding revocation of release are minimal. Additional process in the form of individualized review of Petitioner's circumstances, including his many positive equities, imposes a negligible burden on the Government. And while the Government may have a legitimate interest in ensuring Petitioner's appearance for any additional third country removal proceedings and protecting the community from danger, it "has not articulated an interest in the prolonged detention of noncitizens who are neither dangerous nor a risk of flight." *Black v. Decker*, 103 F.4th 133, 155 (2d Cir. 2024) (internal quotation marks omitted).

87. Accordingly, Petitioner's re-detention and continued detention is also unreasonable under the *Mathews* framework, which requires a release on his prior OSUP conditions. *See Santamaria Orellana*, No. 25-cv-1788, ECF No. 21 at 17 ("Where it is undisputed that the [OSUP revocation] regulations were put in place to provide due process, the Court concludes that [petitioner] has demonstrated that the revocation of his release and thus his ongoing detention are unlawful in violation of the *Accardi* doctrine and violate his right to due process under the Fifth Amendment); *Beltran v. Cardall*, 222 F. Supp. 3d 476 (E.D. Va. 2016) (ordering habeas petitioner's release after finding due process violation from insufficient procedures for release

because "[a]ffording Petitioner . . . additional process at this point would . . . be of marginal benefit" after his prolonged detention).

88. Moreover, ICE has violated its own regulations by re-detaining Petitioner without making required findings and without providing him with adequate notice and an opportunity to respond. Based on the currently available information, ICE has not made any findings justifying revocation of Petitioner's release. Nor has ICE served a Notice of Revocation of Release on Petitioner. Nor has ICE conducted the interview required upon revoking an OSUP. Indeed, Petitioner has received absolutely zero explanation or information with regard to why ICE would re-detain him one month after a federal court ordered his release. This plainly violates ICE's own regulations, including 8 C.F.R. § 241.13.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF 8 U.S.C. § 1231(a)(6)

Indefinite Prolonged Detention

89. Petitioner realleges and incorporates by reference the paragraphs above.

90. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the [noncitizen's] removal from the United States." 533 U.S. at 689, 701.

91. Due to Petitioner's final grant of withholding of removal and the unlikelihood of third country removal, his removal is not reasonably foreseeable. Petitioner's continued detention thus violates 8 U.S.C. § 1231(a)(6), and he must be immediately released.

COUNT II

VIOLATION OF FIFTH AMENDMENT'S DUE PROCESS CLAUSE

Third Country Removal

92. Petitioner realleges and incorporates by reference the paragraphs above.

93. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law. This protection extends to all persons in the United States, including individuals in immigration detention. *Zadvydas*, 533 U.S. at 693. Where the government seeks to remove a person, due process requires, at a minimum, notice and a meaningful opportunity to be heard.

94. Petitioner has a final grant of withholding of removal to Ethiopia. Should DHS seek to remove Petitioner to a third country, due process requires that Petitioner receive notice of what country to which he might be removed, a chance to express any fear of persecution or torture during a third country fear screening, and the option of IJ review of any negative third country screening. *See Mendoza Palacios*, 2026 WL 933319, at *11; *Benitez Pineda*, No. 1:25-cv-2337, ECF No. 17 at 11-14; *Bautista Serpas*, No. 1:25-cv-02369, ECF No. 15 at 13-15; *Rivas Rojas*, No. 1:25-cv-01624, ECF No. 18.

95. Therefore, this Court should enjoin Petitioner's removal to any third country until he has been afforded adequate procedural protections, including IJ review of a negative third country fear screening. Petitioner should receive IJ review within seven days of any negative third country fear screening or be ordered released. *See Rivas Rojas*, No. 25-cv-1624, ECF No. 18.

COUNT III

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

Revocation of Release and Re-Detention Without Sufficient Process

96. Petitioner realleges and incorporates by reference the paragraphs above.

97. The Due Process Clause of the Fifth Amendment forbids the Government from depriving any person of liberty without due process of law. U.S. Const. amend. V. Here, Respondents have violated Petitioner's due process rights by failing to conduct an individualized determination of flight risk, danger, and the imminency of third country removal prior to Petitioner's revocation of release and re-detention. Respondents have also failed to provide Petitioner with notice and an opportunity to be heard prior to the revocation of his release, as required by ICE's own regulations, 8 C.F.R. § 241.13.

COUNT IV

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AND EIGHTH AMENDMENTS TO THE U.S. CONSTITUTION

Punitive Third County Removal

98. Petitioner realleges and incorporates by reference the paragraphs above.

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

100. The U.S. Supreme Court long ago held that the government may not inflict punishment absent criminal charges, a judicial trial, and attendant constitutional protections. *Wong Wing*, 163 U.S. at 236–38.

101. While deportation *alone* is not punishment, removing a vulnerable and disabled noncitizen to a country where he has no connections and is likely to be tortured, imprisoned, *refoul*ed to Ethiopia, and/or killed, is punishment. Such conduct "shocks the conscience" under

Fifth Amendment substantive due process, is cruel and unusual punishment, and may not be imposed without charge and a judicial trial.

102. Petitioner therefore seeks an order from this Court forbidding Respondents from removing him to any country where he is likely to face persecution, imprisonment, *refoulment*, or torture. *See Nguyen*, 796 F. Supp. 3d at 739.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Grant a writ of habeas corpus pursuant to 28 U.S.C. § 2241;

c. Declare that Petitioner's detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001);

d. Order Petitioner's immediate release with all personal belongings, subject to the terms of his prior Order of Supervision;

e. Order that prior to any third country removal (regardless of any diplomatic assurances from the third country), Petitioner be provided with a fear screening before an Asylum Officer *and* the opportunity for an Immigration Judge to review any negative fear screening within 7 days or otherwise be ordered released from detention;

f. Declare that the Fifth Amendment's Due Process Clause requires a third country fear screening *and* the opportunity for Immigration Judge review prior to removal, regardless of whether the third country gives diplomatic assurances;

g. Declare that his removal to a country in which he will likely be imprisoned, tortured, persecuted, or otherwise harmed violates his substantive due process rights and right to be free from cruel and unusual punishment;

h. Declare that Respondents' failure to conduct an individualized analysis as to changed circumstances regarding flight risk, danger, and imminency of third country removal for Petitioner violates the Due Process Clause of the Fifth Amendment;

i. Prohibit Respondents from revoking Petitioner's Order of Supervision or re-detaining Petitioner in the future without complying with 8 C.F.R. §§ 241.13 or 241.4 or conducting an individualized analysis of changed circumstances;

j. Grant any other further relief this Court deems just and proper.

Dated: August 10, 2026

Respectfully submitted,

/s/ Susanna Booth
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Pro Bono Counsel for Petitioner

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my colleagues have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: August 10, 2026

Respectfully submitted,

/s/ Susanna Booth

Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing ("NEM") to all counsel of record. Pursuant to this Court's Second Amended Standing Order 2025-01, this Court will also serve the U.S. Attorney's Office for the District of Maryland.

Dated: August 10, 2026

Respectfully submitted,

/s/ Susanna Booth

Pro Bono Counsel for Petitioner

EXHIBIT LIST

Exhibit A	Takletsadik Declaration, Dated December 8, 2025
Exhibit B	Order of Release on Recognizance
Exhibit C	Withholding of Removal Order
Exhibit D	Order of Supervision
Exhibit E	Medical Records
Exhibit F	Transcript of *Lopez de Barahona v. Noem*