

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SOMPHALAVANH
SOPHANTHAVONG,

Petitioner,

vs.

PAMELA BONDI, *et al.*,

Respondents.

) No. CV25-2405-RSM

) SOMPHALAVANH
) SOPHANTHAVONG'S REPLY TO
) RETURN MEMORANDUM

I. INTRODUCTION

A final order of removal was entered in this case on November 13, 2007. Dkt. 8-2. Given that 18 years has passed without the government removing Somphalavanh Sophanthavong to Laos, Respondents correctly concede that “*Zadvydas*’s six-month presumptive period has likely run[.]” Dkt. 7 at 10. *See Tran v. Bondi*, No. CV-25-01897-JLR, 2025 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025) (stating that the presumptively reasonable period expires six months after a final order, regardless of detention).

While the government now optimistically asserts that Mr. Sophanthavong’s “removal is likely to occur in the reasonably foreseeable future,” Dkt. 7 at 2, ICE Deportation Officer Jiarong Du offers only bare and markedly qualified assurances that “ICE has in possession of *what appears to be* a certified copy of Petitioner’s Laotian birth certificate” and that “[i]t *appears* that once the information has been provided to the DDO, a TD is issued promptly.” Dkt. 9 at ¶¶ 13, 14 (emphasis added). Because the

1 government has provided nothing beyond assertions that travel documents and removal
2 will occur soon, Mr. Sophanthavong is entitled to habeas relief, entitling him to
3 immediate release.

4 The government also asserts that ICE may constitutionally re-detain a noncitizen
5 without a pre-revocation hearing or an opportunity to be heard by a neutral arbiter, as
6 here, whenever it unilaterally determines that removal is reasonably foreseeable and
7 thus, that there has been a changed circumstance. Dkt. 7 at 10. That assertion is not
8 supported by the case law. The government's remaining arguments—that this Court
9 may not issue the relief sought by Mr. Sophanthavong because he is a member of the
10 plaintiff class in *D.V.D. v. Dep't Homeland Sec.*, Civ. A. No. 25-10676 (D. Mass.),
11 Dkt. 7 at 16, has been repeatedly rejected by courts in this district and should be again
12 be rejected here. Similarly, courts in this district have repeatedly rejected the
13 government's contention that Mr. Sophanthavong's claim regarding third-country
14 removal is not yet ripe for consideration, most recently in *Hieu Tri Nguyen v. Bondi*,
15 No. 2:25-cv-02024-TL, 2025 WL 3534168, at *6–7 (W.D. Wash. Dec. 10, 2025).

16 **II. BACKGROUND FACTS**

17 Mr. Sophanthavong has lived in this country since he was five years old. Dkt. 8-
18 4. He arrived in the United States with his mother and older brother in 1982 from a
19 refugee camp in Thailand. Dkt. 1 at 6, Dkt. 8-4 at 2. They reunited with his father and
20 other siblings in Portland, Oregon. Both parents obtained citizenship and another
21 sibling was born in the United States. Dkt. 1 at 6; Dkt. 8-4 at 4. In 1995,
22 Mr. Sophanthavong pled guilty in an Oregon state court to committing felony murder as
23 an aider and abettor when he was a juvenile. According to the judgment provided by the
24 government, at the time of his guilty plea, Mr. Sophanthavong was “unrepresented and
25 knowingly waived counsel.” *Id.* at 2. He was sentenced to 15 years' imprisonment and
26 the court recommended that he be placed with the Oregon Youth Authority. *Id.* at 3.

After Mr. Sophanthavong completed his sentence, an immigration judge entered a final order of removal on November 13, 2007. Dkt. 8-2. According to Officer Du, Mr. Sophanthavong was released on February 12, 2008, under an Order of Supervision after ICE could not remove him to Laos. Dkt. 8-3. Mr. Sophanthavong was again detained on December 27, 2011, after a Washington state forgery conviction and “released on OSUP later that same date.” Dkt. 9, ¶ 8. Officer Du relays that “[o]n October 9, 2025, Petitioner’s file was requested by ERO Portland in order to complete a Travel Document (‘TD’) request.” Dkt. 9, ¶ 9. On October 31, 2025, ICE went to Mr. Sophanthavong’s Portland home and took him into custody as he was arriving home from work. *Id.*, ¶ 10. He was transferred to NWIPC that same day. *Id.*, ¶ 11.

III. ARGUMENT

A. As the government concedes, the presumptively reasonable period for detention has expired.

The government correctly concedes that “*Zadvydas*’s six month presumptive period has likely run[.]” *See Tran*, 2025 WL 3140462, at *3 (stating that the *Zadvydas* grace period ends six months following the entry of an order of removal regardless of the length of detention).¹ *See also Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (Court determining that it is “presumptively reasonable” for ICE to detain a noncitizen for six months following entry of a final removal order while it works to remove the individual). “After this 6-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* at 690. “If the Government fails to rebut the noncitizen’s showing, the noncitizen is

¹ While the government does not cite to *Tran*, it has acknowledged in other cases “that Courts in this district have found that the presumptively reasonable period expires six months after a final order, regardless of detention.” *Kuot v. Bondi*, et al., No. 2:25-cv-02313-RAJ, BAT, Dkt. 14 at 8 (citing to *Tran*).

1 entitled to habeas relief.” *Hieu Tri Nguyen*, 2025 WL 3534168, at *4. Here,
2 Mr. Sophanthavong has met his burden where “more than six months have elapsed
3 since the entry of the order of removal.” *Tran*, 2025 WL 3140462, at *3.

4 Once Petitioner has met his burden, the burden shifts to the government to show
5 that removal is likely in the reasonably foreseeable future. Respondents fail to meet this
6 burden.

7 **B. The government has failed to meet its burden of establishing that**
8 **Mr. Sophanthavong is likely to be removed to Laos in the reasonably**
9 **foreseeable future.**

10 The government argues that Mr. Sophanthavong’s detention is not indefinite
11 because “[h]is removal to Laos is anticipated to occur during the second week of
12 January 2026” and thus, “his removal is likely to occur in the reasonably foreseeable
13 future and satisfies due process.” Dkt. 7 at 10. But Officer Du offers only vague and
14 qualified statements about ICE’s efforts to procure a travel document from Laos. More
15 fundamentally, he confirms that ICE still does not have a travel document even though
16 Officer Du relays that “[o]n October 9, 2025, Petitioner’s file was requested by ERO
17 Portland in order to complete a Travel Document (‘TD’) request.” Dkt. 9, ¶ 9.

18 Two months later, the government still has not submitted a request for travel
19 documents. Officer Du states that ERO field offices do not submit Travel Document
20 (‘TD’) requests directly to Laos; instead, the information for the TD request is provided
21 to a Detention and Deportation Officer (‘DDO’) located in ERO Headquarters who
22 submits the TD request [presumably to the Laotian government] and coordinates
23 removal.” Dkt. 9, ¶ 14. While Officer Du states that “Petitioner’s information was
24 forwarded to the DDO on December 3, 2025,” he does not say that a request was ever
25 submitted to the Laotian government. *Id.*, ¶ 16. Moreover, the only document ICE has
26 secured is “*what appears to be* a certified copy of Petitioner’s Laotian birth certificate.”
Id., ¶ 13 (emphasis added).

1 Officer Du also provides only a qualified assurance as to what will happen once
2 the unspecified “information” should be ultimately forwarded to DDO: “[i]t appears
3 that once information has been provided to DDO, a TD is issued promptly.” *Id.*, ¶ 15.
4 This suggests the DDO controls the issuance of the travel documents even though the
5 travel document must be procured from the Laotian authorities. And while the officer
6 avers, again without elaboration, that “ICE is presently removing individuals to Laos,”
7 Dkt. 9, ¶ 14, he is silent about when and how many people from Laos have been
8 removed.

9 Without any substantive evidence detailing the Laotian government’s eligibility
10 criteria for procuring travel documents or data supporting the officer’s suggestion that a
11 travel document will be “issued promptly” for Mr. Sophanthavong, the officer’s
12 optimistic statement is unsubstantiated. *See, e.g., Nguyen v. Scott*, 796 F.Supp.3d 703,
13 722–23, 726 (W.D. Wash. 2025) (finding respondents failed to meet their burden where
14 they have “not provided any evidence of Vietnam’s eligibility criteria or why it believes
15 Petitioner now meets it” after refusing to accept him for 20 years); *Hambarsonpour v.*
16 *Bondi*, No. C25-1802-RSM, 2025 WL 3251155, *3 (W.D. Wash. Nov. 21, 2025)
17 (finding government failed to meet its burden where government asserted ICE had
18 received assurances from French Consulate that a travel document would be issued but
19 provided “no evidence or ‘substantive indication regarding how or when it expects to
20 obtain the necessary travel document from the [French] government.’”); *Abubaka v.*
21 *Bondi*, No. C25-1889RSL, 2025 WL 3204369, at *5 (W.D. Wash. Nov. 17, 2025)
22 (finding government failed to meet burden where government provided no evidence of
23 Vietnam’s eligibility criteria or why Petitioner now meets it”); *Pena-Gil v. Lyons*, 2025
24 WL 3268333, at *4 (D. Colo. Nov. 24, 2025) (“Unsubstantiated assertions that the
25 government will pursue removal are insufficient to satisfy its burden.”).
26

1 Finally, Officer Du offers there is “an upcoming flight to Laos this month” but
 2 that Mr. Sophanthavong “was not able to be placed on” that flight presumably because
 3 ICE has yet to obtain a travel document for Mr. Sophanthavong. *Id.*, ¶ 17. Although he
 4 also avers there is another flight to Laos, “anticipated to be in the second week of
 5 January,” and that Mr. Sophanthavong “*appears* to be eligible for” that flight, he does
 6 not say why he believes he is eligible for that flight. Without knowing when a travel
 7 document request will be made or the Laotian government’s response, it is impossible
 8 to determine whether there is a significant likelihood that Mr. Sophanthavong will be
 9 removed in the reasonably foreseeable future. “The phrase ‘significant likelihood,’ as
 10 used in the regulation, requires something more than a mere possibility.” *Vu v. Noem*,
 11 No. 1:25-cv-01366-KES-SKO (HC), 2025 WL 3114341, at *7 (E.D. Cal. Nov. 6,
 12 2025); *see also Abubaka*, 2025 WL 3204369, at *5 (“Even assuming the required
 13 documents have now been translated and a complete travel document request submitted
 14 to the Government of Vietnam, this Court ‘does not know if Vietnam has
 15 acknowledged or otherwise responded to the request’ and ‘does not know how long
 16 Petitioner may have to wait for travel documents—if Vietnam even decides to provide
 17 them.’”) (citing *Nguyen*, 796 F.Supp.3d at 726).

18 Here, the government fails to meet its burden of showing a significant likelihood
 19 that Mr. Sophanthavong will be removed in the reasonably foreseeable future.

20 **C. Mr. Sophanthavong was constitutionally entitled to a hearing before**
 21 **being re-detained.**

22 The government contend that because removal to Laos is now reasonably
 23 foreseeable, changed circumstances justify Mr. Sophanthavong’s re-detention. Dkt. 7 at
 24 11 (citing to 8 C.F.R. § 241.13(i)(2)) (“Petitioner’s circumstances had changed because
 25 ICE now had reason to believe that Petitioner’s removal to Laos was reasonably
 26 foreseeable.”). It further asserts that because Mr. Sophanthavong has a final order of

1 removal, “[d]ue process does not require a pre-deprivation hearing prior to the
 2 revocation of an OSUP” and that “any protected liberty interest that Petitioner may
 3 have had in remaining in the community on supervision is addressed by 8 C.F.R.
 4 § 241.13.” *Id.* at 12. But numerous cases, including ones involving re-detention² of
 5 petitioners with final removal orders, as here, have held that due process requires more
 6 than what Respondents say the regulations provide.

7 Indeed, this Court held that, “[b]ased on [its] review of the *Mathews* factors,”
 8 that a “Petitioner has a protected liberty interest in his continuing release from custody,
 9 and that due process requires that Petitioner receive proper notice and an opportunity to
 10 respond before he can be re-detained.” *Jimenez v. Bondi*, No. C25-2167RSM, 2025 WL
 11 3466925, at *2 (W.D. Wash. Dec. 3, 2025). This Court thus granted the petition and
 12 ordered Mr. Jimenez’s immediate release, barring re-detention “without providing
 13 adequate notice of the reasons for his re-detention and a meaningful opportunity to
 14 respond.” *Id.* at *3. The government does not address this Court’s decision nor the
 15 many others coming to the same conclusion. *See e.g., P.T. v. Hermosillo*, No. C25-
 16 2249-KKE, 2025 WL 3294988, at *3 (W.D. Wash. Nov. 26, 2025); *Perez v. Mordant*,
 17 No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-
 18 M-J v. Bostock*, No. 6:25-CV-01425-MTK, 2025 WL 3137296, at *5 (D. Or. Nov. 10,
 19 2025).

20 The government’s discussion of the third factor under *Mathews v. Diaz*, 426 U.S.
 21 67 (1976), relies on an irrelevancy: its “significant” interest in enforcing the
 22 immigration laws in light of Mr. Sophanthavong’s 30-year-old conviction committed
 23 when he was 16 years old for felony murder as an aider and abettor. Dkt. 7 at 14

24 _____
 25 ² The government takes issue with the cases cited in the constitutional due process
 26 portion of Mr. Sophanthavong’s Petition that do not involve a detainee with a final
 order of removal as inapposite to petitioner since he has a final order of removal. But as
 shown *infra*, the constitutional requirements have been extended beyond that context.

1 (“Turning to the third *Mathews* factor, the Ninth Circuit has emphasized that the
 2 *Mathews* test ‘must account for the heightened government interest in the immigration
 3 detention context.’”). But that is not the governmental interest at issue. As stated in
 4 *P.T.*, 2025 WL 3294988, at *3 (emphasis added), “[i]n the final *Mathews* factor, the
 5 Court considers the Government’s interest in arresting and detaining Petitioner *without*
 6 *a hearing.*” *Accord, Perera v. Jennings*, No. 21-CV-04136-BLF, 2021 WL 2400981, at
 7 *5 (N.D. Cal. June 11, 2021) (“the interest at stake is not whether the government may
 8 detain [a noncitizen after releasing him], but whether they may do so without providing
 9 him an individualized bond hearing.”). And “the Government’s interest in re-detaining
 10 non-citizens previously released without a hearing is low[.]” *P.T.*, 2025 WL 3294988,
 11 at *3. That is because, “in immigration court, custody hearings are routine and impose a
 12 minimal cost.” *Carballo v. Andrews*, No. 1:25-CV-00978-KES-EPG (HC), 2025 WL
 13 2381464, *8 (E.D. Cal. Aug. 15, 2025).

14 The government further asserts that the post-detention administrative process
 15 described in the regulations provide all the safeguards Mr. Sophanthavong needs from
 16 the risk of erroneous deprivation and thus his re-detention “align[] with the principles
 17 of due process.” Dkt. 7 at 14. But as the court pointed out in *Guillermo M. R. v. Kaiser*,
 18 791 F. Supp. 3d 1021 (N.D. Cal. 2025), the regulations provide no opportunity to have
 19 a neutral party evaluate ICE’s unilateral determination of the contested facts. And that it
 20 is this lack of “any neutral review” which “creates a heightened risk of deprivation for
 21 Petitioner.” *Id.* at 1034.

22 Because Mr. Sophanthavong was not given a hearing on whether removal was
 23 reasonably foreseeable before being re-detained, he must be released on this ground as
 24 well.

D. The government has not shown compliance with its own regulations about re-detention.

As discussed in Mr. Sophanthavong's petition, Dkt. 2 at 11–12, various regulations also govern re-detention. The government cites to the regulations but state it has complied with “the OSUP revocation procedures.” Dkt. 7 at 13. These regulations require the government to establish that, based on “changed circumstances,” there is “a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future,” 8 C.F.R. § 241.13(i)(2); *see also, e.g., Hernandez-Escalante v. Noem, et al.*, No. CV25-182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (“These regulations clearly indicate, upon revocation of supervised release, it is the [Government’s] burden to show a significant likelihood that the [noncitizen] may be removed.”) (collecting cases). As discussed above, the government has not met that burden. *See, e.g., Tran*, 2025 WL 3140462, at *3 (finding the government had “not met its burden to present evidence supporting” its claim that removal would occur within the reasonably foreseeable future and therefore, it did “not comply with the requirements set forth by 8 C.F.R. § 241.13(i) and 8 C.F.R. § 241.13(f)”).

Thus, Mr. Sophanthavong's re-detention was unlawful on a separate regulatory ground (failure to meet the government's burden), which provides a third ground requiring his release, in addition to his *Zadvydas* and due process claims.

E. Numerous courts have rejected the government's argument that Mr. Sophanthavong's claims regarding removal to a third country are not yet ripe.

Mr. Sophanthavong asked for an order precluding ICE from removing him to a third country under its punitive removal policies and an order precluding removing him to a third country absent notice and a meaningful opportunity to respond. The government assert—ignoring that multiple courts in this district have rejected the same assertion—that this Court should deny Mr. Sophanthavong's request as not being ripe. Dkt. 7 at 15. A similar argument was rejected in *Nguyen*. There, the government also

1 represented that it was seeking only to remove the petitioner to his home country of
2 Vietnam and even stipulated that it would not attempt to remove him to any other
3 country unless Vietnam rejected him. The court was unpersuaded, explaining that “the
4 Ninth Circuit has found such voluntary promises insufficient” to eliminate the potential
5 irreparable injury that petitioner could face if the promise were withdrawn, particularly
6 given the underlying allegations that third party removals were being conducted rapidly
7 and without an opportunity for due process. 796 F.Supp.3d at 737.

8 The government argues that Mr. Sophanthavong’s requests are purely
9 speculative given that his deportation to Laos is allegedly reasonably foreseeable.
10 Dkt. 7 at 15. But as shown supra, the government has not met its burden of showing
11 that his removal is reasonably foreseeable. And if the government is saying it does not
12 intend to deport Mr. Sophanthavong to any country other than Laos, that limitation was
13 rejected in *Hieu Tri Nguyen*. 2025 WL 3534168, at *7. There, the court stated,
14 “considering [Respondent’s] qualified assurance in light of current ICE policy,
15 President Trump’s support of and commitment to ‘*sudden deportation in a place and*
16 *manner solely of our discretion*,’ and the undisputed actions of Respondents in carrying
17 out such sudden and discretionary removals, the Court finds the voluntary promise
18 insufficient.” *Id.* (citations omitted). The court further made clear that “the fact that this
19 injury is directly traceable to a written policy suggests that there is an implicit
20 likelihood of its repetition in the immediate future.” *Id.* (cleaned up) (finding issues
21 ripe). *See also Hambarsonpour*, 2025 WL 3251155, at *5 (rejecting government’s
22 ripeness argument).³

23 Finally, without providing the Court with the “DHS memo” that it references,
24 the government argues that DHS policy already provides Mr. Sophanthavong with

25 ³ The government states that DHS policy already provides “notice and a meaningful
26 opportunity to respond,” citing to a “DHS Memo.” Dkt. 7 at 16. The government
however does not provide a copy of that memorandum.

1 “notice and a meaningful opportunity to respond[.]” Dkt. 7 at 16. But the court in
 2 *Nguyen* determined, after reviewing “ICE’s current third-country removal policy” that
 3 ICE’s policy “contravenes Ninth Circuit law” and that it would be impossible to comply
 4 both with Ninth Circuit precedent [as laid out in *Andriasian v. I.N.S.*, 180 F.3d 1033,
 5 1041 (9th Cir. 1999)] and the policy.” 796 F.Supp.3d at 728. The court thus ruled that
 6 petitioner was “likely to succeed on his claim that removal to a third country under
 7 ICE’s current policy, without meaningful notice and reopening of his removal
 8 proceedings for a hearing, would violate due process.” *Id.* at 728–29.

9 Just as other courts in this district have done after rejecting the government’s
 10 ripeness contention and turning to the substantive issue, this Court should grant the two
 11 forms of relief Mr. Sophanthavong requested regarding third-country removal. *See*
 12 *Abubaka*, 2025 WL 3204369, at *7–8 (ruling in petitioner’s favor on merits third-
 13 country removal as to both due process and punitive nature of removal); *Hieu Tri*
 14 *Nguyen*, 2025 WL 3534168, at *10 (same); *Baltodano v. Bondi*, No. CV25-1958RSL,
 15 2025 WL 3484769, at *10 (W.D. Wash. Dec. 4 2025) (quoting *Hambarsonpour*, No.
 16 2025 WL 3251155, at *1, *4–5) (ordering government “not to remove petitioner to any
 17 third country where he is likely to face imprisonment or harm”).

18 **F. Numerous courts in this district have also rejected the government’s**
 19 **argument that this Court may not issue the relief sought because**
 20 **petitioner is a member of the plaintiff class in *D.V.D. v. Dep’t of***
 21 ***Homeland Sec.***

21 The government further argues that “[t]his Court should decline to exercise
 22 jurisdiction over Petitioner’s third country removal claim as a matter of comity because
 23 the District of Massachusetts has certified a class action that includes the same claim
 24 Petitioner is pursuing here” in *D.V.D. v. Dep’t of Homeland Sec.*, Civ. A. No. 25-10676
 25 (D. Mass.). Dkt. 7 at 17. But courts in this district have resoundingly rejected this exact
 26 same argument. As Judge Lasnik explained in *Abubaka*:

1 In August, the Government made the same argument in *Nguyen v.*
 2 *Scott*, No. 2:25-CV-01398-TMC, 2025 WL 2419288, at *20–*23
 3 (W.D. Wash. Aug. 21, 2025). More recently, the Government
 4 made the same argument to this Court in *Baltodano v. Bondi*,
 5 No. 2:25-CV-01958-RSL (W.D. Wash. Nov. 7, 2025). In the
 present matter, the Government’s briefing on this topic is almost
 word-for-word identical to the Government’s briefing on this topic
 in the *Nguyen* and *Baltodano* cases.

6 2025 WL 3204369, at *2.

7 The court concluded that “[a]s in *Baltodano*, this Court adopts the *Nguyen*
 8 court’s detailed and thoughtful analysis of this issue and the *Nguyen* court’s findings
 9 that (1) ‘The class certification in *D.V.D.* does not prevent this Court from adjudicating
 10 Petitioner’s claims regarding third-country removal” and (2) absent ‘clear guidance
 11 form the Supreme Court,’ which the emergency docket order in *D.V.D.* does not
 12 provide, this Court must follow well-established precedent.” *Id.* See also *Sagastizado v.*
 13 *Noem*, No. 5:25-CV-00104, -- F.3d --, 2025 WL 2957002, at *13 (S.D. Tex. Oct. 2,
 14 2025) (“Notably, the class-wide nature of the *D.V.D.* injunction alone could have
 15 justified the stay, and that justification would not undermine the merits of an individual
 16 claim for relief.”).

17 This Court should follow its sister courts in determining that *D.V.D.* does not
 18 preclude Mr. Sophanthavong’s individual claim here.

19 **G. Multiple courts have also already found that the government’s**
 20 **practice of third-country removal is intended to be punitive and thus**
 21 **violates due process.**

22 Finally, the courts in *Abubaka*, *Nguyen*, *Hambarsonpour*, and *Baltodano* have all
 23 held that the government’s practice of third-country removal is intended to be punitive
 24 and thus violates due process under *Wong Wing v. United States*, 163 U.S. 228, 236–38
 (1896), and *Zadvydas*, 533 U.S. at 693–94; *Abubaka*, 2025 WL 3204369, at *8;
 25 *Nguyen*, 796 F.Supp.3d at 739; *Hambarsonpour*, No. 2025 WL 3251155, at *1, *4–5;
 26 *Baltodano*, 2025 WL 3484769, at *10.

These courts have particularly taken note of the descriptions of punitive treatment that deviate from the government’s promises in individual cases before the court. *See, e.g. Rivera-Trigueros v. Bondi*, No. 24-3764, 2025 WL 1189561, at *2 (9th Cir. Apr. 24, 2025) (finding individual had shown that, if detained in El Salvador, he would “confront a prison environment in which torture is pervasive” and that “the squalid conditions in Salvadoran prisons—which include extreme overcrowding, inadequate sanitation, and a lack of food—are deliberately inflicted by government officials as a form of punishment.”) (citation omitted); *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.”); *Department of Homeland Security v. D.V.D.*, 145 S. Ct. 2153, 2154–55 (2025) (Sotomayor, J., dissenting) (describing deportation to Mexico of a gay man from Guatemala who had obtained withholding of removal to Guatemala under the Convention Against Torture; Mexico promptly forwarded him on to Guatemala, where he was forced into hiding); *D.A. v. Noem*, No. 25-CV-3135 (TSC), 2025 WL 2646888, at *1–*3 (D.D.C. Sept. 15, 2025) (describing punitive deportation to prison-like setting in Ghana). This Court should similarly recognize that ICE’s third-country deportation policy is intended to be punitive and therefore violates due process.

DATED this 15th day of December 2025.

Respectfully submitted,

s/ Vicki W.W. Lai

Assistant Federal Public Defender

Attorney for Somphalavanh Sophanthavong

I certify that this reply contains 3,959 words, in compliance with the Local Civil Rules.