

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CARL TODD,

Petitioner,

v.

PAMELA BONDI, Attorney General of
the United States; KRISTI NOEM,
Secretary, United States Department of
Homeland Security; LAURA
HERMOSILLO, Acting Seattle Field
Office Director, United States
Citizenship and Immigration Services;
BRUCE SCOTT, Warden of Immigration
Detention Facility; and the United States
Immigration and Customs Enforcement,

Respondents.

No.

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

PRELIMINARY MATTERS

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

In addition to the relief requested in the Unopposed Motion for Briefing Schedule, Dkt. ___, to be filed once the case is docketed, Petitioner asks this Court to order Respondents not to remove Petitioner from this district while this case is pending, both “[b]ecause transfer of Petitioner to another district could interfere with his access to counsel and ability to participate in the proceedings,” *Tran v. Bondi, et al.*, No. CV25-1897-JLR-BAT, Dkt. 6 at 3 (W.D. Wash. Oct. 7, 2025) (*sua sponte* issuing such an order in a § 2241 case involving an ICE detainee), and “under the Court’s inherent

1 power to preserve its ability to hear the case.” *Alves v. U.S. Dep’t of Just.*, No. EP-25-
2 CV-306-KC, 2025 WL 2629763, at *5 (W.D. Tex. Sept. 12, 2025) (same). *See also*
3 *M.M. v. Wamsley*, No. CV25-2074-TMC, 2025 WL 3053023, at *1 (W.D. Wash. Oct.
4 31, 2025) (same).¹

5 **RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242**

6 **Personal Information**

- 7 1. (a) Full name: Carl Todd
8 (b) Other names used: Abdul[l]a Gordon
9 2. Place of confinement:
10 (a) Northwest Immigration Processing Center (NWIPC)
11 (b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a
12 contractual arrangement with my custodian, the Immigration and Customs Enforcement
13 Field Office Director at Seattle, Washington.
14 (c) Case number or numbers [ICE file number, if known]: My A# has been
15 provided to the government along with the filing of this petition.
16 3. I am currently being held on orders by federal authorities: United States
17 Immigration and Customs Enforcement.
18 4. I am currently being held on an immigration charge.

19 **Decision or Action You Are Challenging**

- 20 5. What are you challenging in this petition: immigration detention.
21

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

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

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

(b) Docket number, case number, or opinion number: My A# has been provided to the government along with the filing of this petition. (c) Decision or action you are challenging: Petitioner was initially ordered removed on January 5, 2009. He was taken into custody by ICE after being released from the Federal Bureau of Prisons' custody in 2008, and paroled from ICE custody on December 16, 2009. He was most recently detained in ICE custody in August 9, 2025, and he has been detained most recently for four months.

Your Earlier Challenges of the Decision or Action

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

10. Motion under 28 U.S.C. § 2255 and appeal to Fourth Circuit: Yes, *see* Case No. CV95-0070 (D. Md.); Case No. 97-6353 (4th Cir.). Motion was granted to vacate one conviction and resentencing him to a 20-year mandatory minimum sentence on remaining counts.

11. Appeals of immigration proceedings:

Does this case concern immigration proceedings? Yes

(a) Date you were taken into immigration custody: September 15, 2008

(b) Date of the removal or reinstatement order: January 5, 2009

(c) Did you file an appeal with the Board of Immigration Appeals? Yes.

(1) Date of filing: Unknown

(2) Case number: Unknown

(3) Result: Appeal dismissed (from EOIR website)

(4) Date of result: May 22, 2009

(5) Issues raised: Unknown

(d) Did you appeal the decision to the United States Court of Appeals?

Unknown.

(1) Name of court:

(2) Date of filing

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. Other than the appeals listed above, have you filed any other petition, application, or motion about the issues raised in this petition? Yes.

Yes, one prior § 2241 petition based on *Zadvydas v. Davis*, 533 U.S. 678 (2001), which was dismissed without prejudice because Mr. Todd was released from ICE detention on an order of supervision. *See Todd v. Holder*, CV09-1927 (W.D. La.).

Grounds for Your Challenge in This Petition

I. Introduction

Petitioner Carl Todd is presently detained at the Northwest ICE Processing Center (NWIPC). Petitioner has most recently been held in immigration custody for four months. Removal to Jamaica is not reasonably foreseeable because he was not successfully deported during his last detention in 2009 and because upon information and belief, there exists no documentation of any Jamaican origin or citizenship. Petitioner's continued detention is therefore in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Petitioner seeks (a) release; (b) an order preventing re-detention unless the government establishes by clear and convincing evidence at a hearing before a neutral decisionmaker that Petitioner is a flight risk or a danger to the community, based on changed circumstances after their most recent release by ICE; (c) an order preventing removal to a third country without notice and meaningful opportunity to

1 respond in compliance with the statute and due process in reopened removal
2 proceedings; and (d) an order barring removal to any third country pursuant to
3 Respondents' punitive removal policy.

4 Petitioner was initially detained after being released from BOP custody in 2008.
5 See Ex. 1, Gueringer Decl., Dkt. 9-3 at 1, *Todd v. Holder*, CV09-01927-PM-KK. The
6 BIA dismissed his immigration appeal on May 5, 2009. 2009 Habeas Petition, Dkt. 1 at
7 4, Case No. CV09-01927-PM-KK (W.D. La.). Petitioner was released on December 16,
8 2009, pursuant to an order of supervision. See Ex. 1, Gueringer Decl., Dkt. 9-3 at 1.
9 Since Petitioner's release, he has complied with all conditions of supervision, worked
10 for sixteen years doing construction and emergency water repairs with the Department
11 of Environmental Protection of the City of New York, and then retired due to a
12 disabling knee injury. Petitioner was re-detained without any determination by the
13 government that he had become a flight risk or a danger to the community.

14 **II. Jurisdiction and Venue**

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

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

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

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

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

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

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

IV. Parties

Petitioner Carl Todd is not confirmed to be a citizen of any country. He has a final order of removal, with Jamaica as the country designated for removal. Petitioner is detained in the control and custody of Respondents at NWIPC. As such, Petitioner is a resident of Tacoma, Washington.

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

Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). In this capacity, Respondent Noem is the legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

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

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

2 Respondent Hermosillo is sued in her official capacity.

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

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

12 **V. Background**

13 Petitioner has been told that he is Jamaican, but he has no memories of Jamaica
14 and has never seen a Jamaican birth certificate or passport. He was abandoned by his
15 parents at a young age and brought to the United States by an aunt at approximately age
16 9. He received little formal education and became involved with drug dealing, leading
17 to conviction on several drug and firearm-related counts and a mandatory Guidelines
18 sentence of 35 years' imprisonment in 1992. *See United States v. Gordon*, CR91-118
19 (D. Md.). During his incarceration, he received his GED and continued to take college
20 courses and received certificates from Newport Business Institute and El Camino
21 College. He worked continuously in the Federal Prison Industries and mentored other
22 prisoners.

23 Upon his release from the Bureau of Prisons in 2008, he was taken into ICE
24 custody. Despite being told that ICE was trying to obtain travel documents from
25 Jamaica, no such documents were obtained. Mr. Todd also tried to obtain documents
26 independently. Mr. Todd was told Jamaica could not issue travel documents where

there was no record showing that Mr. Todd was Jamaican. *See* Ex. 2, Todd Decl. He was released after 15 months on an order of supervision. *See* Ex. 1, Gueringer Decl., Dkt. 9-3 at 1-2.

VI. Particularized Facts Pertaining to Petitioner's Continued Detention

Petitioner cannot presently be returned to Jamaica, because it does not recognize Mr. Todd as Jamaican. *See* Ex. 2, Todd Decl. Removal to Jamaica is not reasonably foreseeable. ICE has not obtained a travel document from Jamaica for Petitioner, nor has Jamaica agreed to accept Petitioner.

According to a document submitted by the government during his prior § 2241 proceeding, Petitioner was previously detained in ICE custody from September 15, 2008, to December 18, 2009 (15 months) without any removal resulting. *See* Ex. 1, Gueringer Decl., Dkt. 9-3 at 2. In his most recent period in ICE custody, he has been detained for four additional months.

VII. The Legal Framework Regarding Indefinite Detention Pending Removal

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

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

The Court further held that the presumptive period during which the detention is reasonably necessary to effectuate a noncitizen’s removal is six months. After that, the

1 noncitizen is eligible for conditional release if there is “no significant likelihood of
2 removal in the reasonably foreseeable future.” *Id.* at 701. After the “presumptively
3 reasonable” period of six months, when the noncitizen can “provide[] good reason to
4 believe that there is no significant likelihood of removal in the reasonably foreseeable
5 future,” then “the Government must respond with evidence sufficient to rebut that
6 showing.” *Id.*

7 The issue is not whether Respondents have been able to remove some
8 individuals to a given country. Rather, the court must make an individualized analysis
9 as to a particular detainee. *See Nguyen v. Scott*, -- F.Supp.3d --, 2025 WL 2419288, *17
10 (W.D. Wash. Aug. 21, 2025) (stating increase in total number of removals to Vietnam,
11 including those who entered pre-1995, fails to rebut the evidence presented by
12 Petitioner that “his individual circumstances make removal unlikely”). Facts that are
13 part of the analysis include whether Respondent provides evidence that the request was
14 submitted to Jamaica, whether Jamaica has acknowledged receipt of the request or
15 otherwise responded to Petitioner’s request, and the anticipated wait time for a response
16 from Jamaica.

17 When a petitioner has been detained for a total of six months after a final order
18 of removal, the *Zadvydas* presumptively reasonable period has expired, even if the
19 petitioner’s current period of detention is less than six months. “A petitioner’s total
20 length of confinement need not be consecutive to reach the six-month presumptively
21 reasonable limit established in *Zadvydas*.” *Tang v. Bondi*, No. CV25-1473-RAJ-TLF,
22 2025 WL 2637750, at *4 (W.D. Wash. Sept. 11, 2025).

23 **B. The six-month presumptively reasonable period runs from the final**
24 **removal order, regardless of whether Petitioner was detained during**
25 **that period.**

26 The six month presumptively reasonable period runs unabated once Petitioner’s
removal order was final, and does not run solely during any period when Petitioner was

1 detained. In *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462 (W.D. Wash. Nov.
2 10, 2025), the Hon. James L. Robart held that petitioner’s “*Zadvydas* grace period
3 ended six months following the entry of the order of his removal[.]” *Id.* at *3. The court
4 reached that conclusion even though the petitioner was not detained until two years
5 later, and Respondents argued that only five months of the *Zadvydas* six-month period
6 had expired, based on the times when petitioner was detained. *See* Federal
7 Respondents’ Return Memorandum and Motion to Dismiss, *Tran*, Dkt. 13 at 1, 7 (Oct.
8 27, 2025). *See also, e.g., Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at *3
9 (D.N.J. June 13, 2025) (finding that “six-month detention period under *Zadvydas*”
10 period began upon affirmance of removal order, rejecting argument that petitioner
11 could not obtain habeas relief because he had not yet been in detention for six months);
12 *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 500 (S.D.N.Y. 2009) (concluding
13 that, where government was aware of noncitizen’s address but failed to pursue her
14 removal until more than 15 months after removal order was entered, “the removal
15 period, as well as any presumptively reasonabl[e] six-month period of removal to which
16 the Government may have been entitled” had expired six months after the entry of the
17 removal order); *Bailey v. Lynch*, No. CV 16-2600 (JLL), 2016 WL 5791407, at *2
18 (D.N.J. Oct. 3, 2016) (where order of removal became effective upon petitioner’s
19 release from underlying conviction to ICE authorities, after which he was held only
20 “briefly” before being released on an order of supervision, the *Zadvydas* presumptively
21 reasonable period ended “long before he was taken back into custody[.]”).

22 A contrary view would run afoul of *Zadvydas*’s reasoning. *Zadvydas* established
23 the six-month grace period to give ICE a fair chance to effectuate the removal before a
24 court gets involved. 533 U.S. at 700–01. That was why the Court chose to expand the
25 grace period beyond the 90-day statutory removal period: because Congress likely did
26 not “believe[] that all reasonably foreseeable removals could be accomplished in that

time.” *Id.* at 701. Giving the government time to remove a noncitizen does not require that the individual be detained for all of that period. ICE can just as effectively take steps to arrange an individual’s removal whether he is in a cell or on the street.

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

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

Petitioner’s interest in not being detained is “the most elemental of liberty interests[.]” *E.A. T.-B. v. Wamsley*, No. CV25-1192-KKE, 2025 WL 2402130, at *3, *9 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting petition and ordering immediate release with no re-detention absent “an immigration court hearing . . . held (with adequate notice) to determine whether detention is appropriate.”). *See also, e.g., Lopez Dejesus v. Bostock*, No. 25-CV-01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash. Nov. 24, 2025) (granting similar relief); *Ledesma Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, *8 (W.D. Wash. Oct. 7, 2025) (granting similar relief).

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

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

1 procedural safeguards; and finally, the Government's interest, including
 2 the function involved and the fiscal and administrative burdens that the
 additional or substitute procedural requirement would entail.

3 *E.A. T.-B.*, 2025 WL 2402130, at *3 (quoting *Mathews*, 424 U.S. at 335).

4 Given that the liberty interest here is "the most elemental," numerous courts
 5 have found that this first factor weighs heavily in a petitioner's favor. *See Ledesma*
 6 *Gonzalez*, 2025 WL 2841574, at *7 (this factor "must be accorded significant weight").
 7 Petitioner's status as a noncitizen does not negate that interest. "While the temporary
 8 detention of noncitizens may sometimes be justified by concerns about public safety or
 9 flight risk, the government's discretion to incarcerate non-citizens is always constrained
 10 by the requirements of due process[.]" *E.A. T.-B.*, 2025 WL 2402130, at *3 (quoting
 11 *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

12 In fact, as an individual who was released by ICE, a petitioner has a higher
 13 liberty interest than that of the normal ICE detainee. *See Guillermo M.R. v. Kaiser*,
 14 No. CV25-5436-RFL, 2025 WL 1810076, at *1 (N.D. Cal. June 30, 2025) (by alleging
 15 that he had previously been released by ICE and was about to be re-detained,
 16 "Petitioner has asserted liberty interests that differ from the liberty interests of a
 17 detained person in *Rodriguez Diaz*") (referencing *Rodriguez Diaz*, 53 F.4th 1189)).²
 18 Similarly, in *Carballo v. Andrews*, No. CV25-978-KES-EPG (HC), 2025 WL 2381464,
 19 *4 (E.D. Cal. Aug. 15, 2025), the court indicated that an individual who has been
 20 released has had—in contrast to a detainee with no period of release—"an opportunity
 21 'to form the [] enduring attachments of normal life'" (quoting *Morrissey v. Brewer*,
 22 408 U.S. 471, 482 (1972)), and thus has a heightened liberty interest, such as that which
 23

24
 25 ² *Rodriguez* held that a person who had been detained pursuant to an individualized
 26 bond hearing where he was found to be a danger or flight risk was not categorically
 entitled to a second bond hearing and that, under the facts of that case, the detainee
 could not succeed in an as-applied challenge to his detention.

1 led the Supreme Court in *Morrissey* to impose due process requirements on parolees
2 where the state seeks to revoke parole.

3 The second factor, risk of an erroneous deprivation of liberty, also weighs in a
4 petitioner's favor. A detainee's release to the community on an OREC reflected ICE's
5 determination that Petitioner was neither a flight risk nor a danger to the community.
6 *See, e.g., Ledesma Gonzalez*, 2025 WL 2841574, at *8 (when ICE released Petitioner,
7 "it did so after determining—as required by regulation—that 'such release would not
8 pose a danger to property or persons, and that the [noncitizen] is likely to appear for any
9 future proceeding.' . . . By issuing the OREC, ICE necessarily found that [Petitioner]
10 was neither a flight risk nor a danger to the community.") (quoting 8 C.F.R.
11 § 236.1(c)(8)); *Barrenechea v. Albarran*, No. CV25-7883-VC, 2025 WL 2717279, at
12 *1 (N.D. Cal. Sept. 22, 2025) ("ICE's release of Barrenechea on his own recognizance
13 in 2020 can only be understood as reflecting a determination that he did not pose a
14 flight risk or danger to the community").

15 The final factor, the government's interest in detaining a petitioner without
16 providing a pre-deprivation hearing, also weighs in a petitioner's favor. "[T]he
17 government's interest in detaining petitioner without a hearing is low." *Carballo*, 2025
18 WL 2381464, *8 (cleaned up). "In immigration court, custody hearings are routine and
19 impose a minimal cost." *Id.* (cleaned up).

20 As stated in *E.A. T.-B.*, 2025 WL 2402130, at *5, "although it would have
21 required the expenditure of finite resources (money and time) to provide Petitioner
22 notice and hearing on ATD violations before arresting and re-detaining him, those costs
23 are far outweighed by the risk of erroneous deprivation of the liberty interest at issue."

24 The holding that a released detainee was entitled to a pre-deprivation hearing
25 comes not from *Ledesma Gonzalez* and *E.A. T.-B.* alone; dozens of other courts have
26 reached this conclusion as well. And while those two cases did not involve petitioners

1 within final removal orders, many courts have found a liberty interest in not being re-
 2 detained, applied the *Mathews* factors as discussed above, and have granted immediate
 3 release. In this district, Judge Ricardo S. Martinez held, “Based on this review of the
 4 *Mathews* factors, the Court finds that Petitioner has a protected liberty interest in his
 5 continuing release from custody, and that due process requires that Petitioner receive
 6 proper notice and an opportunity to respond before he can be re-detained.” *Jimenez v.*
 7 *Bondi*, No. C25-2167RSM, 2025 WL 3466925, at *2 (W.D. Wash. Dec. 3, 2025)
 8 (granting petition, ordering immediate release, and barring re-detention “without
 9 providing adequate notice of the reasons for his re-detention and a meaningful
 10 opportunity to respond.” *Id.* at *3). *See also, e.g., Perez v. Mordant*, No. 2:25-CV-
 11 00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*,
 12 No. 6:25-CV-01425-MTK, 2025 WL 3137296, at *5 (D. Or. Nov. 10, 2025). *Cf. Lopez*
 13 *Dejesus, v. Bostock*, No. CV25-01427-JHC-TLF, 2025 WL 3268002 (W.D. Wash. Nov.
 14 24, 2025) (applying *Mathews* factors to conclude that petitioner was entitled to pre-
 15 redetention due process, even though his detention was pursuant to the mandatory
 16 detention provisions of 8 U.S.C. § 1226(c)).³

17 In any hearing held by the government to justify re-detention, the government
 18 bears the burden of establishing flight risk or danger by clear and convincing evidence.
 19 *See Sanchez-Rivera v. Matuszewski*, No. CV22-1357-MMA-JLB, 2023 WL 139801, at
 20 *7 n.9 (S.D. Cal. Jan. 9, 2023) (noting that “an overwhelming majority of courts” have
 21 so held). For cases in this district, *see Odimara v. Bostock*, No. CV24-1412-MJP-TLF,
 22 2025 WL 1490395, at *10 (W.D. Wash. Mar. 27, 2025), *report and recommendation*
 23 *adopted*, No. CV24-1412 MJP, 2025 WL 1489705 (W.D. Wash. May 23, 2025) (citing
 24 cases).

25 ³ The *Lopez Dejesus* opinion does not mention that detention was pursuant to § 1226(c);
 26 that fact is shown in Respondents’ Return Memorandum, Dkt. 16 at 1, CV25-01427-
 JHC-TLF (W.D. Wash. Oct. 6, 2025).

1 In addition, the government should be required to meet its burden based on
 2 changed circumstances subsequent to the petitioner's previous release by ICE. *See*
 3 *Duong v. Kaiser*, No. CV25-7598-JST, 2025 WL 2689266, at *10 (N.D. Cal. Sept. 19,
 4 2025) (holding that any re-detention first required a hearing "whether a material change
 5 of circumstances justifies [petitioner's] re-detention").

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

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

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

21 the alien will be notified of the reasons for revocation of his or her
 22 release. [ICE] will conduct an initial informal interview promptly after
 23 his or her return to [ICE] custody to afford the alien an opportunity to
 24 respond to the reasons for revocation stated in the notification. The
 25 [noncitizen] may submit any evidence or information that he or she
 26 believes shows there is no significant likelihood he or she be removed
 in the reasonably foreseeable future, or that he or she has not violated
 the order of supervision. The revocation custody review will include
 an evaluation of any contested facts relevant to the revocation and a
 determination whether the facts as determined warrant revocation and
 further denial of release.

1 *Id.* § 241.13(i)(3).

2 ICE's decision to re-detain also cannot be arbitrary, but instead is governed by
3 the factors laid out in 8 C.F.R. § 241.13(f), including:

4 the history of the [noncitizen's] efforts to comply with the order of
5 removal, the history of [ICE's] efforts to remove [noncitizens] to the
6 country in question or to third countries, including the ongoing nature
7 of [ICE's] efforts to remove [the noncitizen] and the [noncitizen's]
8 assistance with those efforts, the reasonably foreseeable results of
9 those efforts, and the views of the Department of State regarding the
10 prospects for removal of [noncitizens] to the country or countries in
11 question.

12 *Id.* See also *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3
13 (E.D. Cal. July 16, 2025). While courts do not make these determinations in the first
14 instance, they may review them for compliance with the regulation. See *id.*; *Nguyen v.*
15 *Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (citing
16 *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

17 **X. The Legal Framework for Third-Country Removals**

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

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

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

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

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

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

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

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

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

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

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

23 Finally, notice of the country to which the noncitizen will be removed must not
24 be “last minute” because that would deprive an individual of a meaningful opportunity
25 to apply for fear-based protection from removal. *Andriasian*, 180 F.3d at 1041. They
26

1 must have time to prepare and present relevant arguments and evidence and to seek
2 reopening of their removal case.

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

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

8 Respondents reportedly have negotiated with at least 58 countries to accept
9 deportees from other nations. On June 25, 2025, the *New York Times* reported that
10 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
11 Rwanda—had agreed to accept deportees who are not their own citizens.⁴ Since then,
12 ICE has carried out highly publicized third-country deportations to South Sudan and
13 Eswatini. It also attempted—and completed—an “end-run” around the protections of
14 the Convention Against Torture by deporting a group of migrants to Ghana, which sent
15 them on to their countries of citizenship despite fears of persecution. *See generally*
16 Ex. 3, Sarah Stillman, *Disappeared to a Foreign Prison*, New Yorker (Dec. 12, 2025).

17 Punishment and deterrence appear to be the point of the Administration’s third-
18 country removal scheme. The Administration has reportedly negotiated with countries
19 to have deportees imprisoned in prisons, camps, or other facilities. The government
20 paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more than 200
21 deported Venezuelans in a maximum-security prison notorious for gross human rights
22 abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds of
23 deportees from countries in Africa and Central Asia and imprisoned them in hotels, a
24 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men,

25 ⁴ Edward Wong, et al., *Inside the Global Deal-Making Behind Trump’s Mass*
26 *Deportations*, N.Y. Times (June 25, 2025), <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html> [<https://perma.cc/64G9-XYGB>].

1 including one pre-1995 Vietnamese refugee, to South Sudan. The men have been
2 detained incommunicado ever since. On July 15, 2025, ICE deported five men to the
3 tiny African nation of Eswatini, including one man from Vietnam, where they are
4 reportedly being held in solitary confinement.

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

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

23 The memo further instructs that if the noncitizen “does not affirmatively state a
24 fear of persecution or torture if removed to the country of removal listed on the Notice
25 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
26 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the

1 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration
2 Services (“USCIS”) for a screening for eligibility for withholding of removal and
3 protection under the Convention Against Torture. “USCIS will generally screen within
4 24 hours.” If USCIS determines that the noncitizen does not meet the standard, the
5 individual will be removed. If USCIS determines that the noncitizen has met the
6 standard, then the policy directs ICE to either move to reopen removal proceedings “for
7 the sole purpose of determining eligibility for [withholding of removal protection] and
8 CAT” or designate another country for removal.

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

13 **XII. The Law Governing Punitive Removal Practices**

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

20 Importantly, the Court distinguished deportation, which the Court reasoned is
21 “not a ‘banishment,’ in the sense in which that word is often applied to the expulsion of
22 a citizen from his country by way of punishment,” from government actions aimed at
23 punishment, such as imprisonment at hard labor in addition to deportation. *Id.* at 236.
24 The Court explained that deportation “is but a method of enforcing the return to his own
25 country of [a noncitizen] who has not complied with the conditions upon the
26 performance of which the government of the nation, acting within its constitutional

1 authority and through the proper departments, has determined that his continuing to
 2 reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730
 3 (1893)). But the Court admonished that the government may not “declare unlawful
 4 residence within the country to be an infamous crime, punishable by deprivation of
 5 liberty and property . . . unless provision were made that the fact of guilt should first be
 6 established by a judicial trial.” *Id.* at 237.

7 Deportation of individuals to third countries to be imprisoned or harmed is
 8 unquestionably punishment.

9 **Grounds for Relief**

10 **Ground One: Petitioner’s Continued Detention in Immigration Custody** 11 **Violates the Due Process Clause of the Fifth Amendment to the U.S.** 12 **Constitution Because There Is No Significant Likelihood that** 13 **Petitioner Will Be Removed in the Reasonably Foreseeable Future.**

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

15 Because Petitioner’s removal order became final on May 22, 2009, the removal
 16 period has long since expired, and detention is no longer required under 8 U.S.C.
 17 § 1231. In addition, the presumptively reasonable period of six months has passed.
 18 Together with Petitioner’s prior period of ICE custody, which totaled 15 months, he has
 19 been detained for much more than six months.

20 There is “good reason to believe that there is no significant likelihood of removal
 21 in the reasonably foreseeable future[.]” *Zadvyas*, 533 U.S. at 701. His presumed birth
 22 country, Jamaica, does not recognize him as a citizen and he lacks evidence of
 23 nationality such as a passport or birth certificate.

24 Therefore, the burden shifts to the government to rebut that showing. The
 25 government cannot meet that burden under the facts of this case. *See Nguyen v. Scott*,
 26 No. CV25-1398, 2025 WL 2419288, at *28–29 (W.D. Wash. Aug. 21, 2025) (granting

1 preliminary injunction requiring release under *Zadvydas*); *Tang*, 2025 WL 2637750, at
2 *6 (same).

3 **Ground Two: Procedural Due Process**

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

5 Petitioner has a liberty interest in not being re-detained. Applying the three-
6 factor test of *Mathews*, that interest is high. The risk of any erroneous deprivation is
7 also high, because ICE's previous release of him reflected a conclusion that he was not
8 a flight risk or a danger to the community. Here, as in *Ledesma Gonzalez*, "ICE revoked
9 that release without any reassessment of those factors." 2025 WL 2841574, at *8.

10 Finally, the cost to the government of providing a hearing is low, and
11 significantly outweighed by the other factors.

12 **Ground Three: Failure to Comply With Regulations**

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

14 Respondents have not complied with their obligations under 8 C.F.R. § 241.13
15 and therefore Petitioner is entitled to release. On information and belief,

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

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

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

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

25 (e) Respondents did not afford Petitioner an opportunity to respond; and
26

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

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

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

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

17 Prior to any third-country removal, Petitioner must be provided with
18 constitutionally and statutorily compliant notice and an opportunity to respond and
19 contest that removal if he has a fear of persecution or torture in that country in reopened
20 removal proceedings. *See Nguyen*, 2025 WL 2419288, at *29 (granting preliminary
21 injunction against “removing Petitioner to a country other than [home country] without
22 notice and a meaningful opportunity to be heard in reopened removal proceedings with
23 a hearing before an immigration judge”).

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

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

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

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

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

12 Petitioner was convicted and completed any sentences for his criminal
13 convictions decades ago. Petitioner’s convictions made him removable from the United
14 States, but the convictions do not authorize the government to inflict, as a matter of
15 executive policy and discretion, additional punishment on Petitioner. Respondents’
16 third-country removal program is punitive in both its nature and its execution.

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

25 Respondents’ third-country removal program is more than a publicity stunt. The
26 hundreds of individuals who have already been subjected to it have been banished in

1 foreign prisons upon arrival without charge and often without communication with the
2 outside world, including their families and lawyers. Respondents may not subject
3 Petitioner to their third-country removal program designed to impose a severe
4 punishment on their subjects. Such conduct “shocks the conscience” under Fifth
5 Amendment substantive due process, is cruel and unusual punishment, and may not be
6 imposed without charge and a judicial trial.

7 Respondents may not seek to remove Petitioner to a third country under their
8 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at *29
9 (granting preliminary injunction against “removing Petitioner to any country where he
10 is likely to face imprisonment upon arrival”).

11 **Prayer for Relief**

12 Petitioner respectfully requests that this Court:

13 (a) Assume jurisdiction over this action;

14 (b) Issue an Order directing Respondents promptly to show cause why this
15 Petition should not be granted;

16 (c) Order Respondents to immediately release Petitioner from custody;

17 (d) Order that Respondents may not re-detain Petitioner without first holding
18 a hearing before a neutral decisionmaker at which the government bears the burden of
19 establishing flight risk or danger to the community by clear and convincing evidence
20 based on changed circumstances since Petitioner was previously released;

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

24 (f) Order that Respondents may not remove Petitioner to any third country
25 because Respondents’ third-country removal program seeks to impose unconstitutional
26 punishment on its subjects, including imprisonment and other forms of harm; and

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

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

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

10 DATED this 10th day of December 2025.

11 Respectfully submitted,

12 s/ *Ann K. Wagner*
13 Assistant Federal Public Defender
14 Attorney for Carl Todd
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