

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MUBASHAR HASSAN,

Petitioner,

vs.

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

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

¹ For just a few examples of other courts issuing such an order in § 2241 cases involving ICE detainees within the past few months (or reflecting the court had previously issued such an order), *see, e.g., Bustos v. Raycraft*, No. 25-13202, 2025 WL

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Mubashar Hassan
- (b) Other names used: None known
2. Place of confinement:
 - (a) Northwest Immigration Processing Center (NWIPC)
 - (b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a contractual arrangement with my custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.
- (c) Case number or numbers: My A# has been provided to the government along with the filing of this petition.
3. I am currently being held on orders by federal authorities: United States Immigration and Customs Enforcement.
4. I am currently being held on an immigration charge.

Decision or Action You Are Challenging

5. What are you challenging in this petition: immigration detention.
6. Provide more information about the decision or action you are challenging:
 - (a) Name and location of the agency or court: United States Immigration and Customs Enforcement
 - (b) Docket number, case number, or opinion number: My A# has been provided to the government along with the filing of this petition.

3022294, at *2 (E.D. Mich. Oct. 29, 2025); *Ferro v. Hyde*, No. CV25-513-SDN, 2025 WL 3003708, at *1 (D. Me. Oct. 27, 2025) (order issued same day petition was filed); *Lopez Pop v. Noem*, No. CV25-2589-SSS-SSC, 2025 WL 3050095, at *7 (C.D. Cal. Oct. 3, 2025); *Singh v. Delaney Hall*, No. CV25-16018-GC, 2025 WL 2772644, at *1 (D.N.J. Sept. 29, 2025); *Hom v. Ceja*, No. CV25-2221-WJM-TPO, 2025 WL 2801449, at *2 (D. Colo. Sept. 17, 2025).

(c) Decision or action you are challenging: I was initially ordered removed and granted deferral of removal under the Convention Against Torture on May 22, 2025. I was taken into custody by ICE on October 26, 2024. I have been detained in ICE custody for more than six months following my final removal order.

Your Earlier Challenges of the Decision or Action

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

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

11. Appeals of immigration proceedings:

Does this case concern immigration proceedings? Yes

(a) Date you were taken into immigration custody: October 26, 2024

(b) Date of the removal or reinstatement order: May 22, 2025

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

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

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

Grounds for Your Challenge in This Petition

I. Introduction

Petitioner Mubashar Hassan is presently detained at the Northwest ICE Processing Center (NWIPC). Mr. Hassan has been held in immigration custody for more than 13 months. Mr. Hassan is a citizen of Pakistan and cannot be removed to Pakistan because he has been granted deferral of removal under the Convention Against Torture. 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)

1 an order preventing removal to a third country without notice and meaningful
2 opportunity to respond in compliance with the statute and due process in reopened
3 removal proceedings; and (d) an order barring removal to any third country pursuant to
4 Respondents' punitive removal policy.

5 **II. Jurisdiction and Venue**

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

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

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

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

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

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

25 Petitioner is "in custody" for the purpose of § 2241 because he has been detained
26 by Respondent ICE in Tacoma, Washington, since October 26, 2024.

1 **IV. Parties**

2 Mr. Hassan is a citizen of Pakistan. Petitioner is detained in the control and
3 custody of Respondents at NWIPC. As such, Petitioner is a resident of Tacoma,
4 Washington.

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

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

11 Respondent Laura Hermosillo is the Field Office Director for ICE Enforcement
12 and Removal Operations ("ERO") in Seattle, Washington. As the ERO Seattle Field
13 Office Director, she is Petitioner's immediate custodian, responsible for his detention at
14 NWIPC, and is the person with the authority to authorize detention or release.
15 Respondent Hermosillo is sued in her official capacity.

16 Respondent Bruce Scott is the Warden of the NWIPC, oversees the day-to-day
17 functioning of the NWIPC, and has immediate physical custody of Petitioner pursuant
18 to a contract with ICE to detain noncitizens. Respondent Scott is sued in his official
19 capacity as the Warden of a federal detention facility. *See Juarez v. Asher*, No. CV20-
20 700, 2021 WL 1946222, at *3–5 (W.D. Wash. May 14, 2021).

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

1 **V. Background**

2 Mr. Hassan is a citizen of Pakistan. He cannot be removed to Pakistan because
3 he has been granted deferral of removal under the Convention Against Torture. This
4 decision of an immigration judge recognized the danger Mr. Hassan would face if he
5 were returned to Pakistan.

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

7 Petitioner cannot be returned to Pakistan and therefore removal to Pakistan is not
8 reasonably foreseeable. ICE has not obtained a travel document from Pakistan or any
9 other country for Mr. Hassan.

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

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

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

1 The issue is not whether Respondents have been able to remove some
2 individuals to a given country. Rather, the court must make an individualized analysis
3 as to a particular detainee. *See Nguyen v. Scott*, -- F.Supp.3d --, 2025 WL 2419288, *17
4 (W.D. Wash. Aug. 21, 2025) (stating increase in total number of removals to Vietnam,
5 including those who entered pre-1995, fails to rebut the evidence presented by
6 Petitioner that “his individual circumstances make removal unlikely.”).

7 **VIII. The Legal Framework for Third-Country Removals**

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

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

20 Second, if the individual is not removed to the country they designated under
21 § 1231(b)(2)(A), the government shall remove the individual to the country of which
22 the individual is a “subject, national, or citizen” unless the government of that country
23 does not inform the U.S. government or the individual within 30 days after first inquiry
24 or within another reasonable period of time whether the government will accept the
25 individual into the country or the country is not willing to accept the individual into the
26 country. 8 U.S.C. § 1231(b)(2)(D).

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

14 Notwithstanding any of these procedures, the statute prohibits removal to a third
15 country where a person may be persecuted or tortured, a form of protection known as
16 withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The government "may not
17 remove [a noncitizen] to a country if the Attorney General decides that the
18 [noncitizen's] life or freedom would be threatened in that country because of the
19 [noncitizen's] race, religion, nationality, membership in a particular social group, or
20 political opinion." *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
21 a mandatory protection.

22 Similarly, Congress codified protections enshrined in the Convention Against
23 Torture (CAT) prohibiting the government from removing a person to a country where
24 they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of 1998
25 ("FARRA"), Public Law 105-277, div. G, sec. 2242, 112 Stat. 2681, 2631-822 (8
26 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel, extradite,

1 or otherwise effect the involuntary return of any person to a country in which there are
2 substantial grounds for believing the person would be in danger of being subjected to
3 torture, regardless of whether the person is physically present in the United States.”);
4 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also
5 mandatory.

6 To comport with the requirements of due process, the government must provide
7 notice of the third-country removal and an opportunity to respond. Due process requires
8 “written notice of the country being designated” and “the statutory basis for the
9 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409
10 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*
11 *Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All
12 removals to third countries, i.e., removal to a country other than the country or
13 countries designated during immigration proceedings as the country of removal on the
14 non-citizen’s order of removal, must be preceded by written notice to both the non-
15 citizen and the non-citizen’s counsel in a language the non-citizen can understand.”
16 (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process
17 requires notice to the noncitizen of the right to apply for asylum and withholding to the
18 country where they will be removed). The government must be able to show evidence
19 that the third country will accept the individual into that country. *See Himri v. Ashcroft*,
20 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-
21 71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“at the time the government
22 proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must
23 be able to show that the proposed country *will* accept the [individual]”).

24 Due process also demands that the government “ask the noncitizen whether he or
25 she fears persecution or harm upon removal to the designated country and memorialize
26 in writing the noncitizen’s response. This requirement ensures DHS will obtain the

1 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
2 about what the officer and noncitizen said].” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,
3 2025 WL 1453640, at *1 (“Following notice, the individual must be given a meaningful
4 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
5 prior to removal.”) (emphasis omitted).

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

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

20 **IX. Facts Pertaining to Punitive Banishment to Third Countries**

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

25 Respondents reportedly have negotiated with at least 58 countries to accept
26 deportees from other nations. On June 25, 2025, the *New York Times* reported that

1 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
2 Rwanda—had agreed to accept deportees who are not their own citizens.² Since then,
3 ICE has carried out highly publicized third-country deportations to South Sudan and
4 Eswatini. It also attempted—and completed—an “end-run” around the protections of
5 the Convention Against Torture by deporting a group of migrants to Ghana, which sent
6 them on to their countries of citizenship despite fears of persecution.

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

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

25 ² 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 On July 9, 2025, ICE issued a new memo stating that, when seeking to remove
2 an individual to a country not designated on the removal order, ICE may deport that
3 person without any procedures for notice or an opportunity to be heard if the State
4 Department confirms it has received diplomatic assurances that individuals will not be
5 persecuted or tortured. If no diplomatic assurances are received, the ICE memo
6 instructs officers to serve on the individual a Notice of Removal that includes the
7 intended country of removal. It instructs officers not to ask whether the individual is
8 afraid of removal to that country. It states that officers should “generally wait at least 24
9 hours following service of the Notice of Removal before effectuating removal” but that
10 “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more hours
11 after service of the Notice of Removal as long as the [noncitizen] is provided
12 reasonable means and opportunity to speak with an attorney prior to removal.”

13 The memo further instructs that if the noncitizen “does not affirmatively state a
14 fear of persecution or torture if removed to the country of removal listed on the Notice
15 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
16 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the
17 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration
18 Services (“USCIS”) for a screening for eligibility for withholding of removal and
19 protection under the Convention Against Torture. “USCIS will generally screen within
20 24 hours.” If USCIS determines that the noncitizen does not meet the standard, the
21 individual will be removed. If USCIS determines that the noncitizen has met the
22 standard, then the policy directs ICE to either move to reopen removal proceedings “for
23 the sole purpose of determining eligibility for [withholding of removal protection] and
24 CAT” or designate another country for removal.

25 The eight men who were ultimately deported to South Sudan all claimed fear of
26 removal to South Sudan. None of those men were provided a fear screening by a

1 USCIS officer or otherwise, despite the fact that they were held by ICE for six weeks
 2 on a U.S. military base in Djibouti before their final removal to South Sudan.

3 **X. The Law Governing Punitive Removal Practices**

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

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

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

Grounds for Relief

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

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

Because Petitioner's removal order became final on May 22, 2025, the removal period has since expired, and detention is no longer required under 8 U.S.C. § 1231. In addition, the presumptively reasonable period of six months has passed.

There is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," *Zadvydas*, 533 U.S. at 701, because Mr. Hassan cannot be deported to Pakistan.

Therefore, the burden shifts to the government to rebut that showing. The government cannot meet that burden under the facts of this case. *See Nguyen v. Scott*, No. CV25-1398, 2025 WL 2419288, at *28–29 (W.D. Wash. Aug. 21, 2025) (granting preliminary injunction requiring release under *Zadvydas*); *Tang*, 2025 WL 2637750, at *6 (same).

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

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

The Fifth Amendment, the INA, the CAT, and implementing regulations mandate meaningful notice and opportunity to respond to any attempt to remove Petitioner to a third country in reopened removal proceedings. They also require an opportunity for Petitioner to make a fear-based claim against removal to a third country in reopened removal proceedings. Respondents' policy for third-country removals violates all of these laws because it directs ICE agents to remove individuals to third countries without any notice or process *at all* where diplomatic assurances are received

1 and, where no diplomatic assurances are received, to provide flagrantly insufficient
2 notice (6–24 hours) and opportunity to respond, in violation of the statute, regulations,
3 and Fifth Amendment.

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

11 **Ground Three: Punitive Third-Country Banishment; Violation of Fifth and**
12 **Eighth Amendments**

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

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

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

21 The U.S. Supreme Court long ago held that the government may not inflict upon
22 individuals an “infamous punishment” in addition to deportation as a penalty for an
23 immigration violation, absent criminal charges, a judicial trial, and attendant
24 constitutional protections. *Wong Wing*, 163 U.S. at 236–38. Respondents’ third-country
25 removal program is punitive in both its nature and its execution.
26

1 The government has arranged for third countries to receive deportees and
2 imprison them on arrival, possibly indefinitely, and often in abhorrent conditions. It has
3 selected countries notorious for human rights abuses and instability for third-country
4 removal arrangements.

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

13 Respondents may not seek to remove Petitioner to a third country under their
14 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at *29
15 (granting preliminary injunction against "removing Petitioner to any country where he
16 is likely to face imprisonment upon arrival").

17 **Prayer for Relief**

18 Petitioner respectfully requests that this Court:

- 19 (a) Assume jurisdiction over this action;
- 20 (b) Issue an Order directing Respondents promptly to show cause why this
21 Petition should not be granted;
- 22 (c) Order Respondents to immediately release Petitioner from custody;
- 23 (d) Order that Respondents may not re-detain Petitioner without first holding
24 a hearing before a neutral decisionmaker at which the government bears the burden of
25 establishing flight risk or danger to the community by clear and convincing evidence
26 based on changed circumstances since Petitioner was previously released;

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

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

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

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

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

16 DATED this 12th day of December 2025.

17 Respectfully submitted,

18 s/ *Corey Endo*
19 Assistant Federal Public Defender
20 Attorney for Mubashar Hassan
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