

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DORIS ELIZABETH MORAN,

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. 2:25-cv-02755-JLR

**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).

Petitioner Doris Elizabeth Moran asks this Court to order Respondents not to remove her from this district while this case is pending, both “[b]ecause transfer of Petitioner to another district could interfere with [her] 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

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

Personal Information

1. (a) Full name: Doris Elizabeth Moran
- (b) Other names used: Doris Moran
2. Place of confinement:
 - (a) Northwest Immigration Processing Center (“NWIPC”)
 - (b) 1623 East J Street, Tacoma, Washington 98241-1615, pursuant to a contractual arrangement with my custodian, the Immigration and Customs Enforcement Field Office Director at Seattle, Washington.
 - (c) Case number or numbers [ICE file number, if known]: 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:

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 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).

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

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

5 (c) Decision or action you are challenging: I was initially ordered removed
6 on June 16, 2025. I was taken into custody by ICE on August 6, 2024, and charged as
7 removable to El Salvador. On June 16, 2025, I was ordered removed, but the
8 immigration judge ordered that my removal to El Salvador be deferred under the
9 Convention Against Torture pursuant to 8 C.F.R. § 1208.17. I have been detained in
10 ICE custody for six months following my final removal order.

11 **Your Earlier Challenges of the Decision or Action**

12 7–9. First, second, and third appeals: None

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

14 11. Appeals of immigration proceedings:

15 Does this case concern immigration proceedings? Yes

16 (a) Date you were taken into immigration custody: August 6, 2024

17 (b) Date of the removal or reinstatement order: June 16, 2025

18 (c) Date of the order granting withholding of removal under the Convention
19 Against Torture: June 16, 2025. *See* Ex. 1.

20 (d) Did you or the government file an appeal with the Board of Immigration
21 Appeals? No.

22 (e) Did you or the government appeal the decision to the United States Court
23 of Appeals? No.

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

Grounds for Your Challenge in This Petition

I. Introduction

Petitioner Doris Elizabeth Moran is presently detained at the Northwest ICE Processing Center (“NWIPC”). Ms. Moran has been held in immigration custody for 16 months, with more than 180 days following her final order of removal. Removal to the former country of residence is not reasonably foreseeable because she has been granted deferral under the Convention Against Torture. Ms. Moran’s continued detention is therefore in violation of *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Ms. Moran seeks (a) release; (b) an order preventing removal to a third country without notice and meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings; and (d) an order barring removal to any third country pursuant to Respondents’ punitive removal policy.

II. Jurisdiction and Venue

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

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

The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act, 28 U.S.C. § 1651; the Due Process Clause of the Fifth Amendment; and the Court’s 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 Ms. Moran is detained in this district.

1 Venue is further proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the
2 events or omissions giving rise to Ms. Moran’s claims occurred in this district.

3 Because Ms. Moran is seeking relief related only to her custody status, which is
4 not inconsistent with an order of removal, exhaustion of administrative remedies, if any,
5 is not required.

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

7 Ms. Moran is “in custody” for the purpose of § 2241 because she has been
8 detained by Respondent ICE in Tacoma, Washington, since August 6, 2024.

9 **IV. Parties**

10 Ms. Moran is a citizen of El Salvador. Following her detention, Ms. Moran was
11 charged as removable to El Salvador and no other countries. At her individual hearing,
12 the immigration judge ordered removal, but further granted Ms. Moran protection from
13 removal to El Salvador in the form of deferral under the Convention Against Torture
14 pursuant to 8 C.F.R. § 1208.17. Ms. Moran is detained in the control and custody of
15 Respondents at NWIPC. As such, Ms. Moran is a resident of Tacoma, Washington.

16 Respondent Pamela Bondi is the Attorney General of the United States. In this
17 capacity, Respondent Bondi is the legal custodian of Ms. Moran. Respondent Bondi is
18 sued in her official capacity.

19 Respondent Kristi Noem is the Secretary of the Department of Homeland
20 Security (“DHS”). In this capacity, Respondent Noem is the legal custodian of
21 Ms. Moran. Respondent Noem is sued in her official capacity.

22 Respondent Laura Hermosillo is the Field Office Director for ICE Enforcement
23 and Removal Operations (“ERO”) in Seattle, Washington. As the ERO Seattle Field
24 Office Director, she is Ms. Moran’s immediate custodian, responsible for her detention
25 at NWIPC and is the person with the authority to authorize detention or release.
26 Respondent Hermosillo is sued in her official capacity.

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

6 Respondent United States Immigration and Customs Enforcement (“ICE”) is the
7 federal executive agency responsible for the enforcement of immigration laws,
8 including the arrest, detention, and removal of noncitizens. Respondent ICE is a legal
9 custodian of Ms. Moran.

10 **V. Background**

11 Doris Elizabeth Moran is a citizen and national of El Salvador. She has resided
12 in the United States continuously since 2017. She is the mother of three children, one of
13 whom has serious mental health issues requiring significant family support. Prior to her
14 arrest by ICE, she worked in restaurants and helped her daughter to raise her
15 grandchild. Ms. Moran has two additional grandchildren who have been born while she
16 has been in ICE custody and whom she has never met.

17 Ms. Moran was taken into ICE custody on August 6, 2024, following alleged
18 reports identifying her as a member of the [REDACTED] gang (also known as the [REDACTED]
19 [REDACTED] gang”). Although ICE never submitted evidence of these reports during her
20 removal proceedings, Ms. Moran testified that her oldest daughter, [REDACTED], had
21 contacted ICE on at least two occasions and attempted to report her mother as a gang
22 member. [REDACTED] has been diagnosed with both schizophrenia and bipolar-I disorder.
23 [REDACTED] states that she was experiencing hallucinations and was under the influence of
24 drugs at the times she reported her mother.

25 During her removal proceedings, ICE charged Ms. Moran as removable to
26 El Salvador. Ms. Moran sought relief in the form of asylum, withholding of removal,

1 and protection under the Convention Against Torture. Ms. Moran testified that she was
2 a victim of [REDACTED] in El Salvador, and she was [REDACTED] by
3 members of the [REDACTED] gang. Although Ms. Moran never joined the gang, they
4 forcibly tattooed the [REDACTED] in order to exert control over her. This
5 tattoo led to Ms. Moran's eventual arrest and imprisonment by Salvadoran authorities,
6 who viewed her as a collaborator of the gang. During her incarceration, Salvadoran
7 authorities allowed [REDACTED] to subject Ms. Moran to [REDACTED]
8 [REDACTED], and [REDACTED].
9 She fled to the United States shortly after her release from prison.

10 On June 16, 2025, the immigration judge granted Ms. Moran immigration relief
11 in the form of protection under the Convention Against Torture ("CAT") due to the
12 substantial harm she experienced as a victim of [REDACTED] as well the [REDACTED]
13 [REDACTED], as well as the current conditions in El Salvador as well.

14 Ms. Moran does not possession citizenship or any lawful status in any other
15 country in the world besides El Salvador. She has willingly provided ICE with a list of
16 alternative countries she would accept removal to—countries where she is confident
17 that there is minimal risk of [REDACTED] activity and countries that she believes would not
18 refoul her back to El Salvador—and those countries have summarily refused to accept
19 her. ICE has instead notified Ms. Moran that they intend to remove her to Mexico.
20 Ms. Moran has affirmatively expressed a fear of persecution and torture if removed to
21 Mexico, in large part due to [REDACTED]
22 [REDACTED]. Ms. Moran was notified on June 28, 2025, that her case would be
23 referred to USCIS for the processing of a fear claim to Mexico. To date, Ms. Moran has
24 not received a fear interview.
25
26

VI. Particularized Facts Pertaining to Petitioner's Continued Detention

Ms. Moran cannot presently be returned to El Salvador, because the immigration judge explicitly ordered that she be granted protection from removal to El Salvador under the Convention Against Torture. Ex. 1. Removal to El Salvador is thus not reasonably foreseeable. ICE is prohibited from seeking a travel document from El Salvador for Petitioner and has not provided evidence of a travel document for any other country. Upon information and belief, no country has agreed to accept Petitioner. Evidence submitted in other cases indicates that Mexico will not accept any deportee who is unwilling to go there, and Ms. Moran has already expressed fear of being sent there. *See* Ex. 2 (Parsons Decl., Case No. 3:25-cv-02866-JES-VET (S.D. Cal.)).

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 noncitizen is eligible for conditional release if there is “no significant likelihood of removal in the reasonably foreseeable future[.]” *Id.* at 701. After the “presumptively reasonable” period of six months, when the noncitizen can “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable

1 future,” then “the Government must respond with evidence sufficient to rebut that
2 showing.” *Id.*

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

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

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

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

1 her order of Removal, Petitioner designated three alternative countries of removal:
2 Canada, Sweden, and Spain.

3 Second, if the individual is not removed to the country they designated under
4 § 1231(b)(2)(A), the government shall remove the individual to the country of which
5 the individual is a “subject, national, or citizen,” presuming such removal is not
6 explicitly barred by order of an immigration judge.

7 Third, if the individual is not removed to either the country of their designation
8 or the country of which they are a subject, national, or citizen, then the government
9 shall remove them to any of the following options: (1) the country from which the
10 individual was admitted to the United States; (2) the country in which is located the
11 foreign port from which the individual left for the United States or for a foreign
12 territory contiguous to the United States; (3) the country in which the individual resided
13 before the individual entered the United States and from which the individual entered
14 the United States; (4) the country in which the individual was born; or (5) the country in
15 which the individual’s birthplace is located when the individual was ordered removed.

16 8 U.S.C. § 1231(b)(2)(E). *Only* “[i]f impracticable, inadvisable, or impossible” to
17 remove the individual to any of these countries may the government remove the
18 individual to “another country whose government will accept [them] into that country.”
19 8 U.S.C. § 1231(b)(2)(E)(vii).

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

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

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

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

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

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

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

6 Respondents reportedly have negotiated with at least 58 countries to accept
7 deportees from other nations. On June 25, 2025, the *New York Times* reported that
8 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
9 Rwanda—had agreed to accept deportees who are not their own citizens.² Since then,
10 ICE has carried out highly publicized third-country deportations to South Sudan and
11 Eswatini. In a move particularly relevant to Ms. Moran, ICE also attempted—and
12 completed—an “end-run” around the protections of the Convention Against Torture by
13 deporting a group of migrants to Ghana, which sent them on to their countries of
14 citizenship despite fears of persecution. *See generally* Ex. 3, Sarah Stillman,
15 *Disappeared to a Foreign Prison*, New Yorker (Dec. 12, 2025).

16 Punishment and deterrence appear to be the point of the Administration’s third-
17 country removal scheme. The Administration has reportedly negotiated with countries
18 to have deportees imprisoned in prisons, camps, or other facilities. The government
19 paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more than 200
20 deported Venezuelans in a maximum-security prison notorious for gross human rights
21 abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds of
22 deportees from countries in Africa and Central Asia and imprisoned them in hotels, a
23 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men,
24 including one pre-1995 Vietnamese refugee, to South Sudan. The men have been

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 detained incommunicado ever since. On July 15, 2025, ICE deported five men to the
2 tiny African nation of Eswatini, including one man from Vietnam, where they are
3 reportedly being held in solitary confinement.

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

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

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

1 Services (“USCIS”) for a screening for eligibility for withholding of removal and
2 protection under the Convention Against Torture. Although the memo states that
3 “USCIS will generally screen within 24 hours” when a detainee expresses fear with
4 respect to a proposed country of removal, Ms. Moran did not receive a fear interview
5 after she expressed fear of Mexico. If USCIS determines that the noncitizen does not
6 meet the standard, the individual will be removed. If USCIS determines that the
7 noncitizen has met the standard, then the policy directs ICE to either move to reopen
8 removal proceedings “for the sole purpose of determining eligibility for [withholding of
9 removal protection] and CAT” or designate another country for removal.

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

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

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

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

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

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

10 Grounds for Relief

11 **Ground One: Petitioner’s Continued Detention in Immigration Custody** 12 **Violates the Due Process Clause of the Fifth Amendment to the U.S.** 13 **Constitution Because There Is No Significant Likelihood that Petitioner** 14 **Will Be Removed in the Reasonably Foreseeable Future.**

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

16 Petitioner’s present detention is purportedly authorized under 8 U.S.C. § 1231.
 17 Detention of non-citizens who have been ordered removed is mandatory during the so-
 18 called 90-day “removal period.” 8 U.S.C. § 1231(a)(1)(A). This period begins, as
 19 relevant here, on the “date the order of removal becomes administratively final.” 8
 20 U.S.C. § 1231(a)(1)(B)(i). Because Petitioner’s was originally ordered removed on June
 21 16, 2025, and became final on July 16, 2025³, the removal period has long since
 22 expired and detention is no longer required under 8 U.S.C. § 1231(a)(B)(ii).

23 ³ A decision by an IJ becomes final “upon waiver of appeal or upon expiration of the
 24 time to appeal if no appeal is taken within that time.” 8 C.F.R. § 1003.39. The deadline
 25 for filing an appeal to the Board of Immigration Appeals is 30 days from the date of the
 26 decision. See 8 C.F.R. § 1003.38(b). Once final, a grant of deferral of removal prohibits
 removal to the country of feared persecution absent formal reopening and termination
 of that protection. See 8 CFR § 1208.17.

1 The presumptively reasonable period of six months has also passed. Ms. Moran
2 has been detained for more than 16 months, with more than six months following the
3 order in which she was granted protection under the Convention Against Torture.

4 There is “good reason to believe that there is no significant likelihood of removal
5 in the reasonably foreseeable future[.]” *Zadvydas*, 533 U.S. at 701. Most notably, the
6 immigration judge has specifically ordered that Ms. Moran *cannot* be removed to her
7 country of citizenship, El Salvador. Beyond this, the government has failed to produce
8 travel documents to facilitate Ms. Moran’s removal to any of the three alternative
9 countries to which she has requested removal. Rather, ICE has notified Ms. Moran of
10 their intentions to remove her to Mexico. Ms. Moran has stated that she fears
11 persecution and potential torture if removed to Mexico, and ICE notified her on June
12 28, 2025, that she would be scheduled for a fear interview with USCIS. To date, that
13 fear interview has not occurred.

14 On October 1, 2025, Ms. Moran was provided a 90-day custody review with ICE
15 officer Brett Booth. During this interview, Officer Booth stated that ICE had contacted
16 multiple countries regarding Ms. Moran’s intended removal, but that countries are not
17 willing to cooperate with ICE in issuing travel documents. Instead, he urged Ms. Moran
18 to begin contacting foreign governments and asking them affirmatively to issue her
19 travel documents so that she may be removed to a third country.

20 Therefore, the burden shifts to the government to rebut that showing. The
21 government cannot meet that burden under the facts of this case. *See Nguyen v. Scott*,
22 No. CV25-1398, 2025 WL 2419288, at *28–29 (W.D. Wash. Aug. 21, 2025) (granting
23 preliminary injunction requiring release under *Zadvydas*); *Tang*, 2025 WL 2637750, at
24 *6 (same).

Ground Two: Substantive Due Process

Prior to 2025, the Respondents' practice was to release noncitizens following a final order from the Tacoma Immigration Court granting deferral of removal under the Convention Against Torture, absent any serious criminal history or national security concerns. Here, Ms. Moran has been told that she is not allowed to remain in the United States, and has repeatedly been pressured to either waive her right to protection from removal to El Salvador or remain in detention indefinitely until a third country alternative becomes available.

Respondents' policy against parole in all cases supports the conclusion that Petitioner's detention is punitive, as do many reported statements advocating for increased arrests for their own sake. Respondents' refusal to address widespread mistreatment of detained immigrants also supports that conclusion. *See* Nicole Acevedo, *Hundreds of alleged human rights abuses in immigrant detention, report finds*, NBC News (Aug. 5, 2025), <https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-report-rcna222499> [<https://perma.cc/3XLR-6XHX>]; Center for Human Rights, *Conditions at the Northwest Detention Center*, University of Washington, <https://jsis.washington.edu/humanrights/projects/immigrant-rights-observatory/conditions-at-the-northwest-detention-center/> [<https://perma.cc/QF24-UR6C>] (last visited Dec. 31, 2025).

Ground Three: 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 Ms. Moran to a third country in reopened removal proceedings. They also require an opportunity for Ms. Moran to make a fear-based claim against removal to a third

1 country in reopened removal proceedings. Respondents' policy for third-country
2 removals violates all of these laws because it directs ICE agents to remove individuals
3 to third countries without any notice or process *at all* where diplomatic assurances are
4 received and, where no diplomatic assurances are received, to provide flagrantly
5 insufficient notice (6–24 hours) and opportunity to respond, in violation of the statute,
6 regulations, and Fifth Amendment.

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

14 **Ground Four: Punitive Third-Country Banishment; Violation of Fifth and**
15 **Eighth Amendments**

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

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

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

24 The U.S. Supreme Court long ago held that the government may not inflict upon
25 individuals an “infamous punishment” in addition to deportation as a penalty for an
26

1 immigration violation, absent criminal charges, a judicial trial, and attendant
2 constitutional protections. *Wong Wing*, 163 U.S. at 236–38.

3 Ms. Moran has no conviction history in the United States, and the only charge of
4 inadmissibility raised against her during removal proceedings is her presence in the
5 United States without admission or parole pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).
6 Ms. Moran concedes this charge, but her inadmissibility does not authorize the
7 government to inflict, as a matter of executive policy and discretion, additional
8 punishment on Ms. Moran. Respondents’ third-country removal program is punitive in
9 both its nature and its execution.

10 The government has arranged for third countries to receive deportees and
11 imprison them on arrival, possibly indefinitely, and often in abhorrent conditions. It has
12 selected countries notorious for human rights abuses and instability for third-country
13 removal arrangements. The hundreds of individuals who have already been subjected to
14 Respondents’ third-country removal program have been banished in foreign prisons
15 upon arrival without charge and often without communication with the outside world,
16 including their families and lawyers. Respondents may not subject Petitioner to their
17 third-country removal program which is designed to impose a severe punishment on
18 their subjects. Such conduct “shocks the conscience” under Fifth Amendment
19 substantive due process, is cruel and unusual punishment, and may not be imposed
20 without charge and a judicial trial.

21 Respondents may not seek to remove Petitioner to a third country under their
22 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at *29
23 (granting preliminary injunction against “removing Petitioner to any country where he
24 is likely to face imprisonment upon arrival”).
25
26

Prayer for Relief

Petitioner respectfully requests that this Court:

- (a) Assume jurisdiction over this action;
- (b) Issue an Order directing Respondents promptly to show cause why this Petition should not be granted;
- (c) Order Respondents to immediately release Ms. Moran from custody;
- (d) Order Respondents to, within 24 hours of her release, provide the Court with a declaration confirming that Ms. Moran has been released from custody;
- (e) Order that Respondents may not remove or seek to remove Ms. Moran to a third country without notice and meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings;
- (f) Order that Respondents may not remove Ms. Moran to any third country because Respondents' third-country removal program seeks to impose unconstitutional punishment on its subjects, including imprisonment and other forms of harm; and
- (g) Order all other relief that the Court deems just and proper.

Verification Pursuant to LCR 100(e)

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

1 DATED this 31st day of December 2025.

2 Respectfully submitted,

3 *s/ Ann K. Wagner*

4 Assistant Federal Public Defender

5 Attorney for Doris Elizabeth Moran