

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AZAD RAHMANI,

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

Mr. Rahmani asks this Court to order Respondents not to remove him 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

Alternatively, he asks the Court to order Respondents not to transfer him without providing reasonable advance notice.

RECITATIONS TO SUBSTANTIALLY CONFORM TO AO 242

PERSONAL INFORMATION

1. (a) Full name: Azad Rahmani

(b) Other names used: None

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]: Mr. Rahmani's A# has been provided to the government along with the filing of this petition.

3. Mr. Rahmani is currently being held on orders by federal authorities: United States Immigration and Customs Enforcement.

4. Mr. Rahmani is currently being held on an immigration charge.

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. Sep. 29, 2025); *Hom v. Ceja*, No. CV25-2221-WJM-TPO, 2025 WL 2801449, at *2 (D. Colo. Sept. 17, 2025).

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: Mr. Rahmani's A# has been provided to the government along with the filing of this petition.

(c) Decision or action you are challenging: Mr. Rahmani was initially ordered removed on July 15, 2025. Mr. Rahmani was taken into custody by ICE on July 16, 2025. Mr. Rahmani has been detained in ICE custody for more than six months following the 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: Mr. Rahmani has appealed the denial of his motion to reopen his immigration case. That appeal is pending and a briefing schedule has been ordered.

Does this case concern immigration proceedings? Yes.

(a) Date you were taken into immigration custody: July 16, 2025

(b) Date of the removal or reinstatement order: July 15, 2025

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

However, Mr. Rahmani filed a motion to reopen his immigration case on October 23, 2025. The request was denied by the immigration judge on November 10, 2025.

Mr. Rahmani appealed the denial and a briefing schedule has been ordered.

(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.

1 GROUNDS FOR YOUR CHALLENGE IN THIS PETITION

2 I. INTRODUCTION

3 Petitioner, Azad Rahmani, is presently detained at the Northwest ICE Processing
4 Center (“NWIPC”). Mr. Rahmani has been held in immigration custody for more than
5 six months. Removal to Iran the former country of residence is not reasonably
6 foreseeable. Mr. Rahmani’s continued detention is therefore in violation of *Zadvydas v.*
7 *Davis*, 533 U.S. 678, 689 (2001). Mr. Rahmani seeks (a) release; (b) an order preventing
8 re-detention unless the government establishes by clear and convincing evidence at a
9 hearing before a neutral decisionmaker that Mr. Rahmani is a flight risk or a danger to
10 the community, based on changed circumstances after their most recent release by ICE;
11 (c) an order preventing removal to a third country without notice and meaningful
12 opportunity to respond in compliance with the statute and due process in reopened
13 removal proceedings; and (d) an order barring removal to any third country pursuant to
14 Respondents’ punitive removal policy.

15 II. JURISDICTION AND VENUE

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

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 Mr. Rahmani 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 Mr. Rahmani's claims occurred in this district.

Because Mr. Rahmani 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

Mr. Rahmani is "in custody" for the purpose of § 2241 because he has been detained by Respondent ICE in Tacoma, Washington, since June 15, 2025.

IV. PARTIES

Azad Rahmani is a citizen of Iran. He first entered the United States on September 15, 2023. He fled Iran due to political persecution. He has been beaten by Iranian government security forces and believes he would be arrested and tortured if returned to Iran. He was held in immigration custody for approximately five days and then released on bond while he pursued a claim for asylum, withholding of removal, and protections under the Convention Against Torture. On July 15, 2025, he failed to appear for an individual hearing before an immigration judge, fearing he would be detained and returned to Iran. The immigration judge entered an oral in-absentia removal order that day and entered a written removal order to Iran on July 15, 2025. Mr. Rahmani attempted to flee to Canada but was caught in Blaine, WA, on July 16, 2025, and has since been held in ICE custody at the Northwest Immigration Processing Center. Mr. Rahmani is detained in the control and custody of Respondents at NWIPC. As such, Mr. Rahmani is a resident of Tacoma, Washington.

1 Respondent Pamela Bondi is the Attorney General of the United States. In this
2 capacity, Respondent Bondi is the legal custodian of Mr. Rahmani. Respondent Bondi
3 is sued in her official capacity.

4 Respondent Kristi Noem is the Secretary of the Department of Homeland
5 Security (“DHS”). In this capacity, Respondent Noem is the legal custodian of
6 Mr. Rahmani. Respondent Noem is sued in her official capacity.

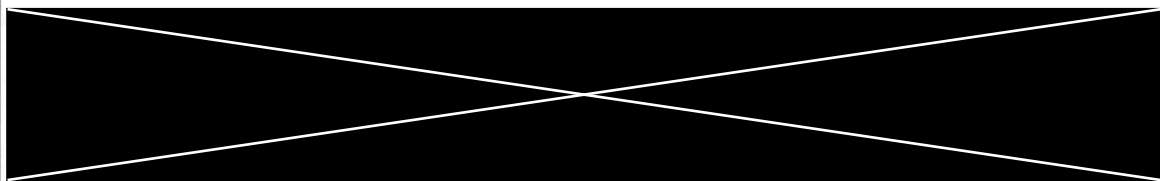
7 Respondent Laura Hermosillo is the Field Office Director for ICE Enforcement
8 and Removal Operations (“ERO”) in Seattle, Washington. As the ERO Seattle Field
9 Office Director, she is Mr. Rahmani’s immediate custodian, responsible for his
10 detention at NWIPC, and is the person with the authority to authorize detention or
11 release. Respondent Hermosillo is sued in her official capacity.

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

17 Respondent United States Immigration and Customs Enforcement (“ICE”) is the
18 federal executive agency responsible for the enforcement of immigration laws,
19 including the arrest, detention, and removal of noncitizens. Respondent ICE is a legal
20 custodian of Mr. Rahmani.

21 **V. BACKGROUND**

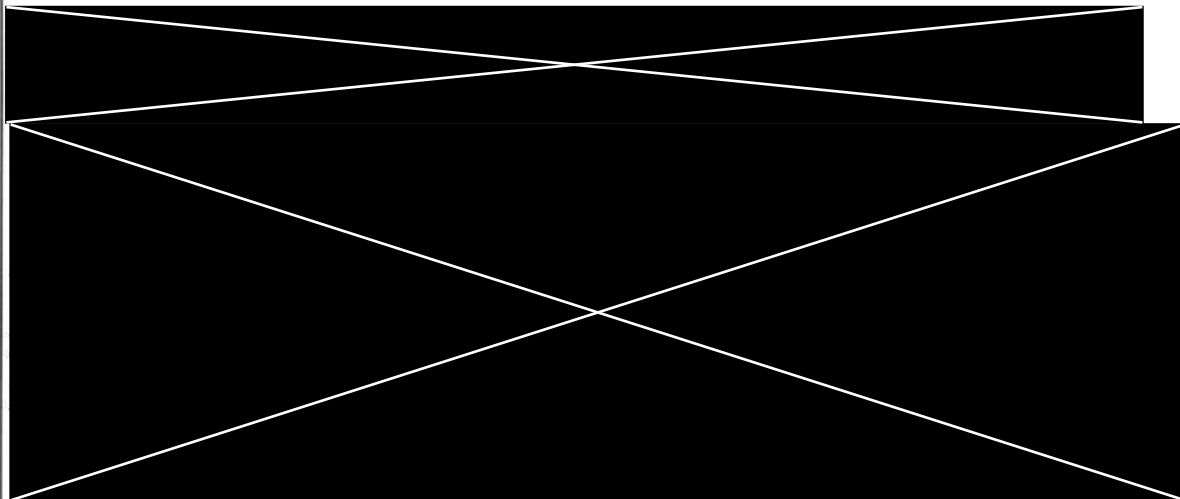
22 Azad Rahmani is a citizen of Iran. 

23 

24

25

26



9 retaliation was severe. Mr. Rahmani knew he was not safe—and neither was his family
10 should he remain—so he fled the country.

11 Mr. Rahmani found his way to Brazil with a humanitarian visa. This was
12 temporary and he was never offered any permanent status there. Eventually he joined a
13 group heading north, and they travelled through South and Central America until they
14 reached the border of the United States with Mexico. On September 15, 2023, he was
15 led across the border where he waited with others for Customs and Border Patrol to
16 arrest him.

17 Mr. Rahmani was held in immigration custody for approximately five days and
18 then released on bond while he pursued a claim for asylum, withholding of removal,
19 and protections under the Convention Against Torture. On July 15, 2025, he failed to
20 appear for an individual hearing before an immigration judge, fearing he would be
21 detained and returned to Iran. The immigration judge entered an oral in-absentia
22 removal order that day and entered a written removal order to Iran on July 15, 2025.
23 Mr. Rahmani attempted to flee to Canada but was caught in Blaine, WA, on July 16,
24 2025, and has since been held in ICE custody at the Northwest Immigration Processing
25 Center.

VI. PARTICULARIZED FACTS PERTAINING TO MR. RAHMANI'S CONTINUED DETENTION

Mr. Rahmani cannot presently be returned to Iran. While in ICE custody, he has been told by ICE officials that Iran stated he cannot be returned to Iran at this time.

ICE considers Iran as one of only fifteen “uncooperative” countries that do not facilitate return of their nationals. Ex. 1. Iran does not “conduct[] interviews, issu[e] travel documents in a timely manner, [or] accept[] the physical return of their nationals by scheduled commercial or charter flights consistent with ICE and/or foreign government removal guidelines.” *Id.* Removal to Iran is not reasonably foreseeable.

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*, 796 F.Supp.3d 703, 726 (W.D. Wash.
6 Aug. 21, 2025) (stating increase in total number of removals to Vietnam, including
7 those who entered pre-1995, fails to rebut the evidence presented by petitioner that “his
8 individual circumstances make removal unlikely”). Facts that are part of the analysis
9 include whether Respondents provide evidence that the request was submitted to Iran,
10 whether Iran has acknowledged receipt of the request or otherwise responded to
11 Mr. Rahmani’s request, and the anticipated wait time for a response from Iran.

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

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

21 The six-month presumptively reasonable period runs unabated once petitioner’s
22 removal order was final, and does not run solely during any period when petitioner was
23 detained. In *Tran v. Bondi*, No. CV25-01897-JLR, 2025 WL 3140462 (W.D. Wash.
24 Nov. 10, 2025), the Hon. James L. Robart held that petitioner’s “*Zadvydas* grace period
25 ended six months following the entry of the order of his removal[.]” *Id.* at *3. The court
26 reached that conclusion even though the petitioner was not detained until two years
later, and Respondents argued that only five months of the *Zadvydas* six-month period

1 had expired, based on the times when petitioner was detained. *See Tran*, No. CV25-
2 01897-JLR, Dkt. 13, Resp't Return Mem. and Mot. to Dismiss at 1, 7 (Oct. 27, 2025).
3 *See also, e.g., Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at *3 (D.N.J. June
4 13, 2025) (finding that "six-month detention period under *Zadvydas*" period began
5 upon affirmance of removal order, rejecting argument that petitioner could not obtain
6 habeas relief because he had not yet been in detention for six months); *Farez-Espinoza*
7 *v. Chertoff*, 600 F.Supp.2d 488, 500 (S.D.N.Y. 2009) (concluding that, where
8 government was aware of noncitizen's address but failed to pursue her removal until
9 more than 15 months after removal order was entered, "the removal period, as well as
10 any presumptively reasonabl[e] six-month period of removal to which the Government
11 may have been entitled" had expired six months after the entry of the removal order);
12 *Bailey v. Lynch*, No. CV16-2600 (JLL), 2016 WL 5791407, at *2 (D.N.J. Oct. 3, 2016)
13 (where order of removal became effective upon petitioner's release from underlying
14 conviction to ICE authorities, after which he was held only "briefly" before being
15 released on an order of supervision, the *Zadvydas* presumptively reasonable period
16 ended "long before he was taken back into custody[.]"). *See also Zavvar v. Scott*,
17 No. CV25-2104-TDC, 2025 WL 2592543, at *4 (D. Md. Sept. 8, 2025) (citing *Cordon-*
18 *Salguero v. Noem*, No. 25-1626-GLR, Dkt. 21, Mot. Hr'g Tr. at 33–34 (D. Md. June 23,
19 2025) as "finding that the six-month period was not tolled upon release from
20 detention")).

21 A contrary view would run afoul of *Zadvydas*'s reasoning. *Zadvydas* established
22 the six-month grace period to give ICE a fair chance to effectuate the removal before a
23 court gets involved. 533 U.S. at 700–01. That was why the Court chose to expand the
24 grace period beyond the 90-day statutory removal period: because Congress likely did
25 not "believe[] that all reasonably foreseeable removals could be accomplished in that
26 time." *Id.* at 701. Giving the government time to remove a noncitizen does not require

1 that the individual be detained for all of that period. ICE can just as effectively take
2 steps to arrange an individual's removal whether he is in a cell or on the street.

3 **VIII. THE LAW PERTAINING TO A NONCITIZEN'S PROCEDURAL DUE**
4 **PROCESS RIGHT NOT TO BE RE-DETAINED ABSENT A HEARING**
5 **ESTABLISHING THAT THE INDIVIDUAL IS EITHER A FLIGHT**
6 **RISK OR A DANGER TO THE COMMUNITY**

7 Procedural due process requires notice and an opportunity to be heard. *Mathews*
8 *v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural
9 due process rights, a petitioner must establish (1) a protected property or liberty interest,
10 and (2) a denial of adequate procedural protections. *ASSE Int'l, Inc. v. Kerry*, 803 F.3d
11 1059, 1073 (9th Cir. 2015). The Court must also consider “the Government’s interest,
12 including the function involved and the fiscal and administrative burdens that the
13 additional or substitute procedural requirement would entail.” *Rodriguez Diaz v.*
14 *Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022) (quoting *Mathews*, 424 U.S. at 335).

15 Mr. Rahmani’s interest in not being detained is “the most elemental of liberty
16 interests[.]” *E.A. T.-B. v. Wamsley*, 795 F.Supp.3d 1316, 1321, 1324 (quoting *Hamdi v.*
17 *Rumsfeld*, 542 U.S. 507, 529 (2004)) (granting petition and ordering immediate release
18 with no re-detention absent “an immigration court hearing . . . held (with adequate
19 notice) to determine whether detention is appropriate.”). *See also, e.g., Ledesma*
20 *Gonzalez v. Bostock*, No. CV25-1404-JNW-GJL, 2025 WL 2841574, *8 (W.D. Wash.
21 Oct. 7, 2025) (finding detainee has liberty interest).

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

24 First, the private interest that will be affected by the official action;
25 second, the risk of an erroneous deprivation of such interest through the
26 procedures used, and the probable value, if any, of additional or substitute
procedural safeguards; and finally, the Government’s interest, including
the function involved and the fiscal and administrative burdens that the
additional or substitute procedural requirement would entail.

1 *E.A. T.-B.*, 795 F.Supp.3d at 1320–21 (quoting *Mathews*, 424 U.S. at 335).

2 Given that the liberty interest here is “the most elemental,” numerous courts
3 have found that this first factor weighs heavily in a petitioner’s favor. *See Ledesma*
4 *Gonzalez*, 2025 WL 2841574, at *7 (this factor “must be accorded significant weight”).
5 Mr. Rahmani’s status as a noncitizen does not negate that interest. “While the
6 temporary detention of non-citizens may sometimes be justified by concerns about
7 public safety or flight risk, the government’s discretion to incarcerate non-citizens is
8 always constrained by the requirements of due process[.]” *E.A. T.-B.*, 795 F.Supp.3d at
9 1321 (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

10 The second factor, risk of an erroneous deprivation of liberty, also weighs in
11 Mr. Rahmani’s favor. Mr. Rahmani has been in detention for more than six months.
12 Continued detention, without a hearing to determine risk or danger to the community, is
13 a significant curtailment of his liberty.

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

19 As stated in *E.A. T.-B.*, 795 F.Supp.3d at 1324, “although it would have required
20 the expenditure of finite resources (money and time) to provide Petitioner notice and
21 hearing on ATD violations before arresting and re-detaining him, those costs are far
22 outweighed by the risk of erroneous deprivation of the liberty interest at issue.”

23 The holding that a released detainee was entitled to a pre-deprivation hearing
24 comes not from *Ledesma Gonzalez* and *E.A. T.-B.* alone; dozens of other courts have
25 reached this conclusion as well. And while those two cases did not involve petitioners
26 within final removal orders, many courts have found a liberty interest in not being re-

1 detained, applied the *Mathews* factors as discussed above, and have granted immediate
 2 release. In this district, *see, e.g., Huy Van Tran v. Bondi*, No. CV25-02335-DGE-TLF,
 3 2025 WL 3725677, at *5 (W.D. Wash. Dec. 24, 2025) (finding that detainee with final
 4 order of removal has liberty interest and fact that detainee was allowed to remain in
 5 community under order of supervision “only strengthens this interest”); *Khim v. Bondi*,
 6 No. CV25-02383-RSL, 2025 WL 3653724, at *4 (W.D. Wash. Dec. 17, 2025)
 7 (applying the *Mathews* analysis from *E.A. T.-B.* to detainee with final order of
 8 removal); *Jimenez v. Bondi*, No. CV25-2167-RSM, 2025 WL 3466925, at *2 (W.D.
 9 Wash. Dec. 3, 2025) (finding that petitioner with final order of removal “has a protected
 10 liberty interest in his continuing release from custody, and that due process requires that
 11 Petitioner receive proper notice and an opportunity to respond before he can be re-
 12 detained”; barring re-detention “without providing adequate notice of the reasons for
 13 his re-detention and a meaningful opportunity to respond,” *id.* at *3). *See also, e.g.,*
 14 *Perez v. Mordant*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla.
 15 Dec. 3, 2025); *S-M-J v. Bostock*, No. 6:25-CV-01425-MTK, 2025 WL 3137296, at *5
 16 (D. Or. Nov. 10, 2025). *Cf. Lopez Dejesus, v. Bostock*, No. CV25-01427-JHC-TLF,
 17 2025 WL 3268002 (W.D. Wash. Nov. 24, 2025) (applying *Mathews* factors to conclude
 18 that petitioner was entitled to pre-re-detention due process, even though his detention
 19 was pursuant to the mandatory detention provisions of 8 U.S.C. § 1226(c)).²

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

25 ² The *Lopez Dejesus* opinion does not mention that detention was pursuant to § 1226(c);
 26 that fact is shown in Respondents’ Return Memorandum, No. 25-CV-01427-JHC-TLF,
 Dkt. 16 at 1 (W.D. Wash. Oct. 6, 2025).

1 TLF, 2025 WL 1490395, at *10 (W.D. Wash. Mar. 27, 2025), *report and*
 2 *recommendation adopted*, No. CV24-1412 MJP, 2025 WL 1489705 (W.D. Wash.
 3 May 23, 2025) (citing cases).

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

9 **IX. THE LAW PERTAINING TO A NONCITIZEN'S REGULATORY**
 10 **RIGHT NOT TO BE RE-DETAINED ABSENT NOTICE, AN**
 11 **OPPORTUNITY TO BE HEARD, AND FINDINGS THAT THE**
 12 **REGULATORY STANDARDS FOR RE-DETENTION HAVE BEEN MET**

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

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

25 the [noncitizen] will be notified of the reasons for revocation of his or
 26 her release. [ICE] will conduct an initial informal interview promptly
 after his or her return to [ICE] custody to afford the [noncitizen] an
 opportunity to respond to the reasons for revocation stated in the
 notification. The [noncitizen] may submit any evidence or information

that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. 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.

Id. § 241.13(i)(3).

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

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

Id. See also *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3 (E.D. Cal. July 16, 2025). While courts do not make these determinations in the first instance, they may review them for compliance with the regulation. See *id.*; *Nguyen v. Hyde*, 788 F.Supp.3d 144, 150 (D. Mass. June 20, 2025) (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

X. THE LEGAL FRAMEWORK FOR THIRD-COUNTRY REMOVALS

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

First, an individual with a removal order may designate the country to which they want to be removed, and the government *shall* remove the individual to that country. 8 U.S.C. § 1231(b)(2)(A). The government may disregard that designation if (1) the individual fails to designate a country promptly; (2) the government of that country does not inform the U.S. government finally, within 30 days after the date the

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).

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

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

Notwithstanding any of these procedures, the statute prohibits removal to a third country where a person may be persecuted or tortured, a form of protection known as

1 withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The government “may not
 2 remove [a noncitizen] to a country if the Attorney General decides that the
 3 [noncitizen’s] life or freedom would be threatened in that country because of the
 4 [noncitizen’s] race, religion, nationality, membership in a particular social group, or
 5 political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is
 6 a mandatory protection.

7 Similarly, Congress codified protections enshrined in the Convention Against
 8 Torture (“CAT”) prohibiting the government from removing a person to a country
 9 where they would be tortured. *See* Foreign Affairs Reform and Restructuring Act of
 10 1998 (“FARRA”), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8
 11 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite,
 12 or otherwise effect the involuntary return of any person to a country in which there are
 13 substantial grounds for believing the person would be in danger of being subjected to
 14 torture, regardless of whether the person is physically present in the United States.”);
 15 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. CAT protection is also
 16 mandatory.

17 To comport with the requirements of due process, the government must provide
 18 notice of the third-country removal and an opportunity to respond. Due process requires
 19 “written notice of the country being designated” and “the statutory basis for the
 20 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409
 21 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*
 22 *Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All
 23 removals to third countries, i.e., removal to a country other than the country or
 24 countries designated during immigration proceedings as the country of removal on the
 25 non-citizen’s order of removal, must be preceded by written notice to both the non-
 26 citizen and the non-citizen’s counsel in a language the non-citizen can understand.”

1 (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process
2 requires notice to the noncitizen of the right to apply for asylum and withholding to the
3 country where they will be removed). The government must be able to show evidence
4 that the third country will accept the individual into that country. *See Himri v. Ashcroft*,
5 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-
6 71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) (“[A]t the time the government
7 proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must
8 be able to show that the proposed country *will* accept the [individual].”).

9 Due process also demands that the government “ask the noncitizen whether he or
10 she fears persecution or harm upon removal to the designated country and memorialize
11 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
12 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
13 about what the officer and noncitizen said].” *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,
14 2025 WL 1453640, at *1 (“Following notice, the individual must be given a meaningful
15 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
16 prior to removal.”) (emphasis omitted).

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

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

6 **XI. FACTS PERTAINING TO PUNITIVE BANISHMENT TO THIRD** 7 **COUNTRIES**

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

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

20 Punishment and deterrence appear to be the point of the Administration’s third-
 21 country removal scheme. The Administration has reportedly negotiated with countries
 22 to have deportees imprisoned in prisons, camps, or other facilities. The government
 23 paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more than 200
 24 deported Venezuelans in a maximum-security prison notorious for gross human rights

25 ³ 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 abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds of
2 deportees from countries in Africa and Central Asia and imprisoned them in hotels, a
3 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men,
4 including one pre-1995 Vietnamese refugee, to South Sudan. The men have been
5 detained incommunicado ever since. On July 15, 2025, ICE deported five men to the
6 tiny African nation of Eswatini, including one man from Vietnam, where they are
7 reportedly being held in solitary confinement.

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

14 On July 9, 2025, ICE issued a new memo stating that, when seeking to remove
15 an individual to a country not designated on the removal order, ICE may deport that
16 person without any procedures for notice or an opportunity to be heard if the State
17 Department confirms it has received diplomatic assurances that individuals will not be
18 persecuted or tortured. If no diplomatic assurances are received, the ICE memo
19 instructs officers to serve on the individual a Notice of Removal that includes the
20 intended country of removal. It instructs officers not to ask whether the individual is
21 afraid of removal to that country. It states that officers should “generally wait at least 24
22 hours following service of the Notice of Removal before effectuating removal” but that
23 “[i]n exigent circumstances, [ICE] may execute a removal order six (6) or more hours
24 after service of the Notice of Removal as long as the [noncitizen] is provided
25 reasonable means and opportunity to speak with an attorney prior to removal.”
26

1 The memo further instructs that if the noncitizen “does not affirmatively state a
 2 fear of persecution or torture if removed to the country of removal listed on the Notice
 3 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
 4 on the notice.” If the noncitizen “does affirmatively state a fear if removed to the
 5 country of removal,” then ICE will refer the case to U.S. Citizenship and Immigration
 6 Services (“USCIS”) for a screening for eligibility for withholding of removal and
 7 protection under the Convention Against Torture. “USCIS will generally screen within
 8 24 hours.” If USCIS determines that the noncitizen does not prove to the screener’s
 9 satisfaction that it is more likely than not that the noncitizen will be tortured, the
 10 individual will be removed. This imposes on the noncitizen a higher standard than the
 11 “reasonable fear” and “credible fear” standards found in the INA. If USCIS determines
 12 that the noncitizen has met the standard, then the policy directs ICE to either move to
 13 reopen removal proceedings “for the sole purpose of determining eligibility for
 14 [withholding of removal protection] and CAT” or designate another country for
 15 removal.

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

20 Further support that Mr. Rahmani faces a risk of punitive third-country removal
 21 comes from two declarations submitted in *Nguyen*, attached here as Exhibits 2 and 3.
 22 They detail removals to third countries with little or no notice, as described in *Nguyen*,
 23 796 F.Supp.3d at 736–37.

24 **XII. THE LAW GOVERNING PUNITIVE REMOVAL PRACTICES**

25 It is bedrock law that the U.S. government may not impose or inflict an infamous
 26 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court

1 ruled that while deportation itself was not a punishment, the government could not
 2 attach punitive conditions to deportation—in that case, imprisonment at hard labor—
 3 absent a criminal charge, trial in a court of law, and the protections of the Fifth, Sixth,
 4 and Eighth Amendments. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

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

18 Deportation of individuals to third countries to be imprisoned or harmed is
 19 unquestionably punishment.

20 **XIII. THE LAW GOVERNING INJUNCTIVE RELIEF**

21 “An injunction is appropriate when the party seeking relief demonstrates that:
 22 (1) it is likely to suffer irreparable injury that cannot be redressed by an award of
 23 damages; (2) that “considering the balance of hardships between the plaintiff and
 24 defendant, a remedy in equity is warranted”; and (3) “that the public interest would not
 25 be disserved by a permanent injunction.” *City & Cnty. of San Francisco v. Trump*, 897
 26 F.3d 1225, 1243 (9th Cir. 2018).

GROUND FOR RELIEF

Ground One: Mr. Rahmani'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 Mr. Rahmani Will Be Removed in the Reasonably Foreseeable Future.

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

Because Mr. Rahmani's removal order became final on July 15, 2025, the removal period has long 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. As noted above, Iran has been designated as an uncooperative country for removals and Mr. Rahmani reports that ICE told him that Iran will not accept him back at this time.

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*, 796 F.Supp.3d 703, 739 (granting preliminary injunction requiring release under *Zadvydas*); *Tang*, 2025 WL 2637750, at *6 (same).

Ground Two: Procedural Due Process

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

Mr. Rahmani has a liberty interest in not being re-detained. Applying the three-factor test of *Mathews*, that interest is high and it would be a low the burden on ICE to hold a hearing to determine whether Mr. Rahmani is a flight risk or a danger to the community.

As to Mr. Rahmani's prayer for injunctive relief barring a new re-detention absent due process, the requirements for injunctive relief are met. His prospective unlawful re-detention would constitute an irreparable injury that could not be redressed

1 by an award of damages. Second, the balance of hardships is completely in
 2 Mr. Rahmani's favor: Mr. Rahmani risks unlawful re-detention, while Respondents
 3 suffer no hardship by being prevented from following their unlawful re-detention
 4 practices. Finally, the public interest would affirmatively be served by barring
 5 Respondents' unlawful practice.

6 Furthermore, there is a significant likelihood that Respondents would seek to
 7 again re-detain Mr. Rahmani unlawfully. Respondents have a policy to round up as
 8 many noncitizens as possible. *See, e.g.*, Jose Olivares, "Trump administration sets quota
 9 to arrest 3,000 people a day in anti-immigration agenda," *The Guardian* (May 29,
 10 2025), <https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota>
 11 [<https://perma.cc/6P5L-NUDM>].

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 Mr. Rahmani 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 Mr. Rahmani would be removed
 18 in the reasonably foreseeable future;

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

(f) Respondents did not advise Petitioner of the right to request a review of the detention and did not comply with the requirements for such review. His re-detention was therefore contrary to Respondents' regulations and unlawful.

Ground Four: 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 Mr. Rahmani to a third country in reopened removal proceedings. They also require an opportunity for Mr. Rahmani 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 and, where no diplomatic assurances are received, to provide flagrantly insufficient notice (6–24 hours) and opportunity to respond, in violation of the statute, regulations, and Fifth Amendment.

Prior to any third-country removal, Mr. Rahmani must be provided with constitutionally and statutorily compliant notice and an opportunity to respond and contest that removal if he has a fear of persecution or torture in that country in reopened removal proceedings. *See Nguyen*, 796 F.Supp.3d 703, 739 (granting preliminary injunction against “removing Petitioner to a country other than [home country] without notice and a meaningful opportunity to be heard in reopened removal proceedings with a hearing before an immigration judge”).

Furthermore, the requirements for injunctive relief are met. Mr. Rahmani's prospective unlawful re-detention would constitute an irreparable injury that could not be redressed by an award of damages. Second, the balance of hardships is completely in

1 Mr. Rahmani's favor: Mr. Rahmani risks unlawful removal to a third country, while
2 Respondents suffer no hardship by being prevented from following their unlawful re-
3 detention practices. Finally, the public interest would affirmatively be served by barring
4 Respondents' unlawful practice.

5 In addition, the matter is ripe. The facts set forth above—including Respondents'
6 stated policy regarding third country removals—make it reasonably likely that
7 Respondents would seek to remove Mr. Rahmani to a third country without complying
8 with their regulatory and constitutional obligations to provide Mr. Rahmani with notice
9 and an opportunity to be heard.

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

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

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

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

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

24 The government has arranged for third countries to receive deportees and
25 imprison them on arrival, possibly indefinitely, and often in abhorrent conditions. It has
26 selected countries notorious for human rights abuses and instability for third-country

1 removal arrangements. It has targeted individuals with criminal convictions for third-
2 country removals, where they will be imprisoned and harmed, and has publicly
3 broadcast those removals to demonize and dehumanize the individuals subjected to
4 these practices and strike fear in the immigrant community to send a message of
5 retribution and deterrence.

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

14 Respondents may not seek to remove Mr. Rahmani to a third country under their
15 punitive banishment policy and practices. *See Nguyen*, 796 F.Supp.3d 703, 739
16 (granting preliminary injunction against "removing Petitioner to any country where he
17 is likely to face imprisonment upon arrival").

18 The criteria for an injunction in this case are met. First, unlawful removal to a
19 third country risks irreparable injury that could not be redressed by an award of
20 damages. Second, the balance of hardships is completely in Mr. Rahmani's favor:
21 Mr. Rahmani risks removal to a third country where unwarranted punishment may
22 result, and Respondents suffer no hardship by being prevented from following their
23 unlawful removal policies. Finally, the public interest would affirmatively be served by
24 barring Respondents' unlawful policies. Given the potential for Respondents to attempt
25 a rapid and unlawful removal, Mr. Rahmani would have no opportunity to seek
26 injunctive relief at that time.

1 Furthermore, the matter is ripe. The facts set forth above—including
2 Respondents' stated policy regarding third country removals—make it reasonably likely
3 that Respondents would seek to remove Mr. Rahmani to a third country with a punitive
4 intent and punitive result.

5 **PRAYER FOR RELIEF**

6 Mr. Rahmani respectfully requests that this Court:

- 7 (a) Assume jurisdiction over this action;
- 8 (b) Order Respondents to immediately release Mr. Rahmani from custody;
- 9 (c) Order Respondents to, within 24 hours of his release, provide the Court
10 with a declaration confirming that Mr. Rahmani has been released from custody;
- 11 (d) Order that Respondents may not re-detain Mr. Rahmani without first
12 holding a hearing before a neutral decisionmaker at which the government bears the
13 burden of establishing flight risk or danger to the community by clear and convincing
14 evidence based on changed circumstances since Mr. Rahmani was previously released;
- 15 (e) Order that the government may not otherwise re-detain Mr. Rahmani
16 unless the government:
- 17 (1) obtains a valid travel document to Iran for him,
- 18 (2) provides the valid travel document to his counsel,
- 19 (3) offers Mr. Rahmani the opportunity to leave on his own within two
20 months, and
- 21 (4) Mr. Rahmani does not leave. Under such circumstances, the
22 government may be permitted to re-detain Mr. Rahmani provided
23 it has already made concrete arrangements for him to be put on a
24 flight to Iran in the reasonably foreseeable future.

25 *See Do v. Scott*, No. CV25-2187-RSL, 2025 WL 3496909, at *6 (W.D. Wash. Dec. 5,
26 2025); *Tang*, 2025 WL 3551381, at *3.

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

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

8 (h) Order all other relief that the Court deems just and proper.

9 **VERIFICATION PURSUANT TO LCR 100(E)**

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

17 DATED this 30th day of January 2026.

18 Respectfully submitted,

19 *s/ Dennis Carroll*
20 Senior Litigator
21 Attorney for Azad Rahmani
22
23
24
25
26