UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLOMBUS DIVISION

GABRIEL LASANDA JOHNSON,

Petitioner,

v

LADEON FRANCIS, Field Office Director of Enforcement and Removal Operations, ATLANTA Field Office, TODD LYONS, in his official capacity as Acting director of Immigration and Customs Enforcement; Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; JASON STREEVAL, Warden of STEWART DETENTION CENTER,

Respondents.

Case No. 4:26-CV-1037

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful detention of Petitioner, Gabriel Lasanda Johnson (A[redacted]). Petitioner, Gabriel Lasanda Johnson ("Mr. Johnson"), is in the physical custody of Respondents at the Stewart Detention Center. Mr. Johnson is a citizen of Liberia, but he now faces removal to Sierra Leon. Respondents seek to remove him to Sierra Leon without any opportunity to apply for humanitarian based protection from removal to that country, even though the immigration laws and due process require otherwise. In the years since his release, Petitioner has complied with all his ICE check-ins and complied with all his immigration court hearings.

2. Mr. Johnson was ordered removed to Liberia, but granted withholding of removal to Liberia, December 15, 2004, by an immigration judge (IJ) in the Atlanta Immigration Court. A grant of withholding of removal means that Mr. Johnson demonstrated that his "life or freedom would be threatened" in his home country due to his "race, religion, nationality, membership in a particular social group, or political opinion," and as a result Respondents may not remove him there. 8 U.S.C. § 1231(b)(3)(A).

3. While Respondents may not remove Mr. Johnson to Liberia, they may seek to remove him to another country. This prerogative, however, is not boundless. The Immigration and Nationality Act (INA) provides a hierarchal list of countries to which a person may be removed. In most cases, the INA commands that a person be removed to the place they choose, or some other country to which they have a close connection. *See id.* § 1231(b)(2). Only if removal to one of these countries is "impracticable, inadvisable, or impossible" may the Department of Homeland Security (DHS) remove a person to some

other, third country—a country that is not designated in the removal order. Id. § 1231(b)(2)(E)(vii).

4. Respondents seek to remove Mr. Johnson to a third country. On July 15, 2026, DHS detained Mr. Johnson, informing Mr. Johnson that they intend to remove him to Sierra Leon. Mr. Johnson refused to sign any documentation because he is afraid of being deported given his political beliefs, ideologies, and family history. Indeed, Sierra Leon is known for being particularly hostile to individuals who have expressed similar political views as Mr. Johnson. Moreover, Mr. Johnson has expressed to the ICE officers that two of his uncles were killed as they traveled through Sierra Leon seeking refuge from Liberia.

5. The INA, the Foreign Affairs Reform Restructuring Act of 1998 (FARRA), and their implementing regulations ensure that prior to any removal, Respondents must provide Mr. Johnson an opportunity to present a claim of fear of torture or persecution as to the third country. Specifically, pursuant to 8 U.S.C. § 1231(b)(3), Respondents may not remove persons who are more likely than not to face persecution if removed. And pursuant to the Convention Against Torture (CAT), which is codified as a statutory note to § 1231, Respondents may not remove persons to a country where they are likely to face torture.

6. The Due Process Clause of the Fifth Amendment also requires that, prior to a third-country removal, Mr. Johnson receive meaningful notice and opportunity to access these mandatory statutory protections. As the Supreme Court recently held in *A.A.R.P. v. Trump*, this means a person "must receive notice" that "they are subject to removal" (here, to a third country), and such notice must be provided "within a reasonable time and in such a manner as will allow the [noncitizen] to actually seek . . . relief." 605 U.S. 91, 95 (2025) (per curiam) (quoting *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025)).

7. Respondents have not provided any meaningful notice or opportunity for Mr. Johnson to present a fear-based claim here. On July 15, 2026, over twenty years after an Immigration Judge ("IJ") issued the final order of removal and grant of withholding, a DHS officer handed Mr. Johnson a warning for failure to depart, an arrest warrant, a statement of arrest, and a notice of custody determination, after detaining and arresting Mr. Johnson. Mr. Johnson was subsequently verbally informed of his pending removal to Sierra Leon but was not provided with any information or documentation as to when he would be removed nor any mechanism to raise his statutory rights for protections.

8. Accordingly, Mr. Johnson seeks an order that employs existing DHS screening mechanisms and requires Respondents (1) to inform him and counsel in writing of any planned removal to Sierra Leon (or any other third country) at least ten days prior to removal, (2) to provide a reasonable fear interview (RFI) given Mr. Johnsons's expressed fear of removal, and (3) if the RFI is denied, to provide fifteen days to file a motion to reopen with the immigration court.

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the STEWART DETENTION CENTER in LUMPKIN, GEORGIA.

10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

11. Nothing in 8 U.S.C. § 1252 deprives this Court of jurisdiction.

12. Specifically, § 1252(a)(5) and (b)(9) do not apply here. Mr. Johnson does not seek "judicial review of an order of removal entered or issued," 8 U.S.C. § 1252(a)(5), because Mr.

Johnson's final removal order here designates a country different than the one to which Respondents now seek to remove him. The challenged action and planned removal here arise after removal proceedings were complete.

13. Similarly, § 1252(b)(9) "consolidates" a "noncitizen's various challenges arising from the removal proceeding" into "a petition for review [before] the courts of appeals." *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020) (quoting INS v. St. Cyr, 533 U.S. 289, 313 n. 37 (2001)). However, again, Mr. Johnson challenges only Respondents' actions to seek removal to a new, third country after removal proceedings were completed. Such an action cannot be challenged via a petition for review, because there is no final removal order designating the third country for removal that a court of appeals could review. *Ibarra-Perez*, 2025 WL 2461663, at *9–10.

14. Subsection 1252(g), which bars claims that challenge DHS's decision to "execute [a] removal order[]," also does not prevent relief. This "narrow" subsection, *DHS v. Regents of the Univ. of Calif.*, 591 U.S. 1, 19 (2020), does not "sweep in any claim that can technically be said to 'arise from' the three listed actions" in § 1252(g), *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). Rather than encompass "all deportation-related cases," *Reno v. Am.-Arab Anti-Discrimination Comm.* (AADC), 525 U.S. 471, 478 (1999), § 1252(g) was "designed to give some measure of protection to 'no deferred action' decisions and similar discretionary determinations," *id.* at 485. Here, Mr. Johnson does not challenge any exercise of discretion by Respondents. Instead, all Mr. Johnson seeks is an order requiring Respondents to comply with their mandatory duties to afford protection procedures pursuant to 8 U.S.C. § 1231(b)(3) and the Convention Against Torture. *See Ibarra-Perez*, 2025 WL 2461663, at *6–8.

15. Finally, nothing in FARRA bars this case. Section 2242(d) of FARRA limits review of "regulations adopted to implement [CAT]." Here, however, Mr. Johnson does not challenge the CAT regulations. Instead, he seeks only an order that requires Respondents to provide him with a process to access withholding and CAT, as federal law requires.

16. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers.

VENUE

17. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF GEORGIA, the judicial district in which Petitioner currently is detained.

18. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the MIDDLE DISTRICT OF GEORGIA.

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id*

20. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application

for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

21. Mr. Johnson is a citizen of Liberia. On December 15, 2004, Mr. Johnson became subject to a final order of removal directing removal to Liberia and simultaneously granting him withholding of removal to that country.

22. Respondent Todd Lyons is named in his official capacity as the Acting Director of the Immigration and Customs Enforcement ("ICE"). As the senior Official Performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Southern District of Georgia; is legally responsible for any effort to detain Petitioner; and as such is a custodian of the Petitioner. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

23. Respondent Ladeon Francis is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division; however, on information and belief, the DHS is rotating their Field Office Director without publishing a schedule of rotation. As such, Ladeon Francis or his unknown, unannounced provisional replacement is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He or his acting counterpart is named in his or her official capacity. Respondent Francis's address is 180 Ted Turner Dr Se, Ste 522. Atlanta GA 30303.

24. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and

Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Secretary Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

25. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

26. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity. Respondent Blanches's address is U.S. Department of Homeland Security, Office of the General Counsel, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

27. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

28. Respondent, Warden Jason Streeval, is employed by the private, for-profit detention corporation contracted by the Government as an agent to confine immigrants at Stewart Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity. Respondent Warden's address is Warden, Stewart Detention Center, 1116 S Washington Ave, Lumpkin, GA 39862.

LEGAL FRAMEWORK

The INA's Scheme for Determining the Country of Removal

29. Most noncitizens facing removal are placed into removal proceedings under 8 U.S.C. § 1229a.

30. Typically, at the outset of such a removal proceeding, the parties or the immigration judge designates a country of removal. See Imm. Ct. Prac. Manual § 4.15(i).

31. As relevant here, the INA "provides four consecutive removal commands" about where to remove a noncitizen. *Jama v. ICE*, 543 U.S. 335, 341 (2005).

32. First, in most cases, the noncitizen must be provided the opportunity to "designate one country to which the [noncitizen] wants to be removed." 8 U.S.C. § 1231(b)(2)(A)(i).

33. Second, if the noncitizen declines to designate a country—which often occurs where the noncitizen fears return to their country of origin—DHS then designates the "country of which the [noncitizen] is a subject, national, or citizen" for removal, as required by statute. Id. § 1231(B)(2)(D). The statute requires DHS to attempt removal to these countries before seeking alternatives. See id. § 1231(b)(1), (b)(2)(A), (D) (repeatedly instructing where DHS "shall" remove someone by order of priority).

34. Third, if DHS is unable to remove the individual to either the country of their designation or the country of which they are a subject, national, or citizen, then the government is required to remove them to any of the following options: (1) "[t]he country from which the [noncitizen] was admitted to the United States;" (2) "[t]he country in which is located the foreign port from which the [noncitizen] left for the United States or for a foreign territory contiguous to the United States;" (3) "[a] country in which the [noncitizen] resided before [they] entered the country from which [they] entered the United States;" (4) "[t]he country in which the [noncitizen] was born;" (5) "[t]he country that had sovereignty over the [noncitizen's] birthplace when the [noncitizen] was born;" or (6) "the country in which the [noncitizen's] birthplace is located when the [noncitizen] is ordered removed." Id. § 1231(b)(2)(E).

35. Finally, only where it is "impracticable, inadvisable, or impossible to remove the [noncitizen] to each country described" above may DHS seek removal to some other alternative country. See id. § 1231(b)(2)(E)(vii).

Withholding of Removal and the Convention Against Torture

36. U.S. immigration law affords noncitizens in the United States three forms of protection from persecution and/or torture: asylum, withholding of removal, and protection under the Convention Against Torture (CAT).

37. Asylum typically provides full protection against deportation to any country. *See* 8 U.S.C. § 1158(c). This means the person cannot be deported not only to their country of origin, but also any other country. Asylum also provide a host of other benefits, including a pathway to citizenship.

38. Individuals who are not eligible for asylum, e.g., because they did not apply within one year of entering the country, see id. § 1158(a)(2)(B), may qualify for withholding of removal, id. § 1231(b)(3)(A); see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a "mandatory" protection that prohibits removal to a designated country where a noncitizen establishes that they are more likely than not to face persecution. *INS. v. Aguirre-Aguirre*, 526 U.S. 415, 419 (1999). Withholding of removal also contains exceptions for, inter alia, individuals who have committed certain serious crimes. See 8 U.S.C. § 1231(b)(3)(B).

39. Finally, pursuant to FARRA, Congress instructed that the U.S. government may not "expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture." Pub. L. 105-277 Div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822

(1999) (codified as statutory note to § 1231). This mandate applies to all persons and contains no exceptions.

40. DHS has implemented withholding and CAT protections via regulation. *See* generally 8 C.F.R. §§ 208.16–208.18, 1208.16–1208.18.

41. Individuals can appeal the denial of an application for withholding of removal or CAT protection to the Board of Immigration Appeals (BIA) and later to the courts of appeals. See 8 U.S.C. § 1252(a); 8 C.F.R. §§ 208.31(e), 1208.31(e), (g)(2)(ii), 1240.15; *Nasrallah*, 590 U.S. at 575.

42. No matter where DHS seeks to remove a person, the INA's protections against removal to a country where a person may face persecution and FARRA's protections against removal to a country where a person may face torture apply.

43. Removals pursuant to § 1231(b) are "subject to paragraph (3)," which, as noted, provides the framework for withholding of removal. *See* 8 U.S.C. § 1231(b); *see also, e.g., Jama*, 543 U.S. at 348.

44. Similarly, FARRA and the regulations implementing CAT prohibit deportation to a country where the noncitizen will face torture. See FARRA § 2242(b); 8 C.F.R. §§ 208.16(c)–208.18, 1208.16(c)–1208.18.

Post-Removal Order Release Under Order of Supervision

45. ICE's authority to release people from detention subject to an order of supervision is governed by 8 U.S.C. § 1231(a)(3), which provides that an individual, subject to a removal order, who is not removed within a ninety-day statutory removal period "shall be subject to supervision" under specific terms, including requirements that he or she appear periodically before an immigration officer and obey any written restrictions.

46. 8 C.F.R. § 241.5 indicates specific conditions for release—involving, but not limited to, reporting requirements and travel document acquisition requirements—should an order of supervision be issued.

47. Federal regulations specify that ICE may only release an individual under such an order of supervision if they "demonstrate to the satisfaction of the Attorney General . . . that his or her release will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending such alien's removal." 8 C.F.R. § 241.4(d)(1).

48. These requirements—flight risk and danger—reflect constitutional constraints, since only individuals who pose a flight risk or danger may be civilly detained. *See Zadvydas v. Davis*, 533 U.S. 678, 690–92 (2001).

49. The Government's Obligation to Provide Notice and an Opportunity to be Heard if Supervision is Revoked.

50. 8 C.F.R. §§ 241.4 and 241.13(h)(i) authorize revocation of an individual's release on an order of supervision, in certain contexts.

51. Section 241.4(d) provides that an individual should receive notice of the decision to detain them: "A copy of any decision . . . to detain an alien shall be provided to the detained alien" and a decision to retain custody must "set forth the reasons." 8 C.F.R. § 241.4(d).

52. Section 241.4(l)(2) specifies revocation may occur upon violation of the conditions of release or when, in the district director's opinion, revocation is in the public interest because one of four conditions is met: "(i) the purposes of release have been served; (ii) the alien violates any condition of release; (iii) it is appropriate to enforce a removal

order or to commence removal proceedings against an alien; or (iv) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2).

53. Section 241.4(l)(1) provides that upon revocation of an order of supervision "the alien will be notified of the reasons for his or her revocation of the conditions of their release or parole" and "will be afforded an initial informal interview promptly after his or her return to Service custody" and an opportunity to respond to the rationale for the revocation of supervision. *Id.*

54. Section 241.13(h)(i) provides further conditions where release decisions may be revoked, only for the purpose of removal. This section establishes special review procedures for those noncitizens who are subject to a final order of removal and are detained under the custody review procedures provided at section 241.4 after the expiration of the removal period, where the noncitizen has provided good reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future. See 8 C.F.R. § 241.1(h)(i)(3).

Authority to Revoke Orders of Supervision

55. Generally, regulations grant authority to the Commissioner or Deputy Commissioner to grant release or parole to a noncitizen, except that the Commissioner or his or her delegee, Executive Associate Commissioner for Field Operations (Executive Associate Commissioner), the Deputy Executive Associate Commissioner for Detention and Removal, the Director of the Detention and Removal Field Office or the district director may continue a noncitizen's custody under the provisions of the regulation. 8 C.F.R. § 241.4(a).

56. Once an order of removal becomes final, 8 C.F.R. § 241.4(k)(1)(i) requires the district director or Director of the Detention and Removal Field Office to conduct a custody review. If removal is impracticable or contrary to the public interest, the noncitizen will be notified in writing that they are to be released or that they will be continued in detention pending removal or further review of their custody status. *Id.* If the noncitizen is denied release, the district director or Director of the Detention and Removal Field Office may retain responsibility for further custody determinations for up to three months after expiration of the removal period, after which, if the noncitizen is not released or removed, responsibility for further custody review is referred to the Headquarters Post-Order Detention Unit ("HQPDU"). 8 C.F.R. § 241.4(k)(1)(ii). The HQPDU is thereafter responsible for custody review at set times, whenever it is deemed warranted, and upon request of the noncitizen if certain conditions are met. 8 C.F.R. §§ 241.4(k)(2)(i–v).

FACTS

The Litigation in *D.V.D. v. Department of Homeland Security (D. Mass.).*

57. Until June 23, 2025, individuals like Mr. Johnson were entitled to receive notice and an opportunity to apply for CAT relief prior to removal due to a temporary restraining order, and later, a preliminary injunction, in *D.V.D. v. DHS*, No. 1:25 cv 10676 BEM (D. Mass.)

58. The D.V.D. litigation challenges, inter alia, DHS's failure to provide certain noncitizens with final orders of removal the statutory and constitutional process they are entitled to receive pursuant to 8 U.S.C. § 1231(b)(3), FARRA, and the Due Process Clause.

59. On April 18, 2025, the district court in D.V.D. certified a nationwide class of noncitizens with final removal orders entered in removal proceedings under 8 U.S.C. § 1229a and

certain other administrative removal processes. *D.V.D. v. DHS*, 778 F. Supp. 3d 355, 378, 394 (D. Mass. 2025).

60. At the same time, the court issued a class wide injunction that required the government to undertake certain procedures before removing a person to a third country. *Id.* at 392–93. Specifically, the court ordered that prior to any third-country removal, noncitizens and their counsel, if any, must receive written notice of the country of removal in a language the noncitizen understands and a meaningful opportunity to assert a claim for CAT protection related to that third country. *Id.* at 392. The court's framework adopted DHS's existing process of scheduling RFIs to screen people for a fear and then provided those did not pass the interview a window of fifteen days to move to reopen their removal cases. *Id.* at 392–93.

61. On May 21, 2025, after the government violated the preliminary injunction order, the district court clarified that noncitizens must receive at least ten days' notice prior to removal to a third country. *D.V.D. v. DHS.*, No. CV 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025). The D.V.D. defendants subsequently sought a stay of the preliminary injunction with the U.S. Supreme Court. Their application for a stay emphasized, inter alia, that the district court lacked jurisdiction to provide class wide injunctive relief because of 8 U.S.C. § 1252(f)(1). *See App. for a Stay, DHS v. D.V.D.*, No. 24A1153, at 19–22 (U.S. May 27, 2025). On June 23, 2025, the Court granted the stay application without providing any reasoning. *See DHS v. D.V.D.*, 145 S. Ct. 2153 (2025).

62. On February 25, 2026, the U.S. District Court for the District of Massachusetts issued a summary judgment decision and final judgment granting declaratory relief and setting

aside DHS's third-country removal policy. *See D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 1:25-cv-10676-BEM (D. Mass. Feb. 25, 2026).

63. On March 16, 2026, the U.S. First Circuit Court of Appeals stayed the decision pending appeal. *See D.V.D. v. DHS*, No. 26-1212 (1st Cir. Appeal March 16, 2026).

Respondent's Policy as to Third-Country Removals

64. On March 30, 2025, after the Plaintiffs in D.V.D. filed their case, DHS issued a new memo entitled "Guidance Regarding Third Country Removals," which the D.V.D defendants claimed satisfies the INA, FARRA, and due process. See *D.V.D.*, No. CV 25-10676- BEM, ECF No. 43-1 (D. Mass. Mar. 30, 2025).

65. Pursuant to the memo, Respondents do not need to provide any notice or process whatsoever to a noncitizen prior to their removal if the United States has received "diplomatic assurances [from the country of removal] that [noncitizens] removed from the United States will not be persecuted or tortured.

66. If the United States has not received such assurances, then the memo simply provides that a deportation officer must "inform the [noncitizen] of removal to [the third] country." *Id.* at 2. "Immigration officers will not affirmatively ask whether the [noncitizen] is afraid of being removed to that country." *Id.*

67. If a noncitizen states a fear, then U.S. Citizenship and Immigration Services (USCIS) must screen the noncitizen "within 24 hours of referral from the immigration officer." *Id.* At the screening, the noncitizen must prove that it is "more likely than not" they will be persecuted or tortured upon removal.

68. This process differs dramatically from the typical RFI process, where USCIS assesses only if there is a "reasonable possibility" the noncitizen could establish they are likely to

face persecution or torture if provided the opportunity to present their full case to an immigration judge. *See* 8 C.F.R. § 208.31(c) (outlining reasonable fear interview procedure for other persons with final removal orders, like those with reinstatement orders or administrative removal orders).

69. A "reasonable possibility" is a lower standard of proof than the "more likely than not" standard required to win a grant of withholding of removal or CAT protection.

70. On July 9, 2025, following the Supreme Court's stay of the D.V.D. preliminary injunction, ICE issued guidance regarding how to implement DHS's now-operative March 30 Memo. *See D.V.D.*, No. CV 25-10676-BEM, ECF No. 190-1 (D. Mass. July 15, 2025).

71. The July 9 Guidance is identical to the March 30 Memo except that, in cases where diplomatic assurances do not exist, it provides that an officer will serve a "Notice of Removal" with interpretation. *Id.* at 1.

72. DHS may effectuate removal 24 hours after serving notice; however, "[i]n exigent circumstances," with approval from chief counsel of DHS or ICE, DHS may execute removal to the third country with a mere six hours' notice if ICE provides the noncitizen "means and opportunity to speak with an attorney." *Id.*

73. Respondents' March 30 memo, July 9 guidance, and their practice as to other third-country removals demonstrate that DHS's policy permits the government to provide a slip of paper listing the country of removal mere hours before a planned third-country of removal.

74. In fact, in the D.V.D. litigation, DHS has taken the position that the law does not require them to provide any notice whatsoever:

> THE COURT: In this posture, where it is the discretionary decision of the department that's changing the [country] designation, does the person who's going to be deported have a right to be informed and be given an opportunity to be heard as to the dangerousness of that third country designation?
>
> [DHS COUNSEL]: DHS's position is no.
>
> THE COURT: They don't have to be told anything and given no opportunity to be heard?
>
> DHS COUNSEL]: DHS's position is no.

Tr. at 10-11, No. 1:25-cv-10676-BEM, ECF No. 44 (D. Mass. Mar. 28, 2025).

75. Respondents' extreme position has been born out in several instances. First, on May 7, 2025, the D.V.D. defendants attempted to remove several D.V.D. class members to Libya—a country torn apart by active armed conflict—after providing them at most only hours' notice of removal. *See* Declarations of Johnny Sinodis and Tin Thanh Nguyen, D.V.D., No. 1:25- cv-10676-BEM, ECF No. 99-2 & 99-3 (D. Mass. May 14, 2025).

76. Second, on May 21, 2025, "several class members were [placed on a plane] to South Sudan after having received less than 24 hours' notice of their impending deportations." D.V.D., 145 S. Ct. at 2157 (Sotomayor, J., dissenting). South Sudan, like Libya, is the subject of grave U.S. Department of State warnings against travel and is similarly on the verge of open armed conflict.

77. These examples, which occurred despite the D.V.D. court's preliminary injunction, reflect that Respondents seek to remove individuals to third countries with only hours' notice of removal.

78. Other examples since the D.V.D. injunction was lifted continue also reflect the Respondents' extreme position. For example, recently, five members of the D.V.D. certified class were removed to Ghana, notwithstanding the fact that all five had won

withholding of removal as to their countries of origin. *See* Order, *D.A. v. Noem*, No. 1:25-cv-03135-TSC (D.D.C. Sept. 15, 2025). They were put on a U.S. military plane to Ghana without any notice or opportunity to challenge removal to that country. *Id.* Upon arrival there, one D.V.D. class member was removed almost immediately to their country of origin, notwithstanding the withholding order from a U.S. immigration judge. *Id.* at 3. The examples of these D.V.D. class members show how Respondents are also using third-country removals to facilitate the return of people like Mr. Johnson to their country of origin, in direct violation of the withholding orders such people have received.

79. Even where notice is provided, DHS's policy is to provide not more than 24 hours following referral to USCIS for a person to prepare their entire defense against removal to that third country.

80. In typical withholding and CAT cases, individuals have months to prepare and often submit applications with hundreds of pages of supporting evidence, including testimony, expert witness declarations, and country conditions evidence to explain why a person fears persecution or torture.

Mr. Johnson's Individual Factual Allegations

81. Mr. Johnson is a citizen of Liberia.

82. He entered the United States on December 30, 1987.

83. Mr. Johnson was granted a Motion to Reopen his Removal proceedings on July 30, 2004.

84. He then filed an application for asylum and withholding of removal. An IJ granted Mr. Johnosn's Withholding of Removal request on December 15, 2004, at the Atlanta Immigration Court.

85. The IJ found that Mr. Johnson satisfied the requirements for withholding of removal.

86. Neither he nor DHS appealed the IJ's order ordering removal and granting him withholding of removal. Ex. 1, EOIR System Print out Showing Grant of Application.

87. Since then, Mr. Johnson has been on an order of supervision and reporting with ICE on his scheduled dates. Mr. Johnson was placed on a telephonic monitoring system. *See* Exh 2, Order of Supervision paperwork. Additionally, Mr. Johnson has been renewing his work authorization since 2004

88. Mr. Johnson has assimilated to American culture and has established his life in the United States. He has a United States citizen spouse and four U.S. citizen children.

89. In March of 2020, Mr. Johnson suffered a traumatic brain injury which impedes his cognitive abilities and causes him to have impromptu seizures and chronic migraines. *See* Exh 3, Medical Documents.

90. Recently, new ICE directives have switched to in person reporting. Due to Mr. Johnson's, traumatic brain injury he suffers from cognitive complications. Mr. Johnson had previously informed and provided ICE agents with his medical history. Mr. Johnson at times would be unable to attend a scheduled ICE check-in due to his medical condition and provided paperwork to officers to re-schedule his appointments without issue.

91. Most recently, Mr. Johnson attempted to call his designated ICE agent at the phone number he was provided on numerous occasions but did not receive a response.

92. On July 15, 2026, two men arrived at Mr. Johnsons home in an unmarked car in plain clothes.

93. The men, later identified as ICE agents, approached Mr. Johnson as he was in his yard, grabbed him, did not identify themselves, and proceeded to place Mr. Johnson into their car.

94. Mr. Johnson's son ran out of his home, assuming his father was a victim of criminal activity, and repeatedly yelled at the agents continuously stating his father was a sickly and vulnerable man. He was told to go inside and grab the medicine.

95. Mr. Johnson's wife arrived moments later and attempted to document the situation with her phone when the agents struck the phone from her hand.

96. Once in custody, Mr. Johnson attempted to inform the agents that he needed medication and suffered from a traumatic head injury. He was ignored.

97. After Mr. Johnson blacked out, he was transferred to the Emergency Room to be evaluated.

98. It was confirmed that he had neurological issues and Mr. Johnson was taken back into custody where he was verbally informed, he would be removed to Sierra Leon.

99. Since then, ICE has not provided Mr. Johnson with any additional information regarding its plans to remove him to Sierra Leon.

100. Respondents have not scheduled Mr. Johnson for a fear screening despite being aware of his fear of deportation.

101. Mr. Johnson remains detained.

LEGAL ARGUMENT

Violation of Statutory Protections

102. The INA, FARRA, and the Due Process Clause demand far more than Respondents' policy requires.

103. For the INA's and FARRA's statutory protections against persecution and torture to be meaningful, there must be a means of accessing those procedures. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306 (1993). Thus, "no person

shall be removed from the United States without opportunity, at some time, to be heard." *A.A.R.P.*, 605 U.S. at 94 (citation modified). The Supreme Court has long applied this principle to people facing removal. *See Yamataya v. Fisher*, 189 U.S. 86, 99–101 (1903) (holding that, even though what Congress provided as to exclusion was "due process of law," the statute must be interpreted to provide "notice and . . . an opportunity to be heard" as to whether a person is in the United States "in violation of law").

104. Just earlier this year, the Supreme Court explained that for these due process rights to be meaningful, a person must actually receive notice of their planned removal with sufficient time before it occurs so that the person has a genuine chance to seek relief from that removal. *A.A.R.P.*, 605 U.S. at 94–95. "[N]otice roughly 24 hours before removal, devoid of information about how to exercise due process rights to contest that removal, surely does not pass muster." Id. at 95.

105. Respondents' policy does not remotely comport with these instructions.

106. As detailed above, Respondents seek to bypass the process entirely as to many claimants via diplomatic assurances.

107. As to all others, Respondents' "notice" provides no information about a planned date of removal or about a person's right to apply for protection from that removal. The notice can also be provided mere hours before placement on a plane. Due process demands far more.

108. Respondents' notice also does not require notice to counsel, which DHS is required to provide "[w]henever a person is required" by the immigration regulations to receive notice. 8 C.F.R. §§ 292.5(a), 1292.5(a).

109 Respondents' policy is also deficient in other ways. The withholding statute, FARRA, and their implementing regulations envision individualized consideration of feared persecution or torture. *See* 8 U.S.C. § 1231(b)(3); id. (note); 8 C.F.R. §§ 208.31, 1208.16- 1208.18. Yet Respondents' policy authorizes the agency to deem all claims invalid simply if a country provides a categorical diplomatic assurance to the United States that no persecution or torture will occur as to all noncitizens removed to it.

110. Importantly, the regulations concerning withholding of removal do not even permit diplomatic assurances at all to satisfy the mandatory withholding protections in the INA. As for CAT claims, the regulations allow diplomatic assurances, but only in individual cases. *See* 8 C.F.R. § 1208.18(c)(1); *see also* Regulations Concerning the Convention Against Torture, 64 Fed. Reg. 8478, 8484 (Feb. 19, 1999) (noting that cases of assurances are meant to be "rare").

111. In addition, Respondents' diplomatic assurances do not protect against chain refoulment, which ultimately results in the removal of a noncitizen to their country of origin, despite an immigration judge order that the person not be returned to their country of origin.

112. Similarly, Respondents' policy does nothing to safeguard against persecution or torture by non-state actors. By definition, diplomatic assurances are meaningless where there are non-state actors responsible.

113. Finally, requiring a person to demonstrate full entitlement to withholding or CAT protection in a screening hours after receiving the initial notice about removal to a third country does not provide a meaningful opportunity to be heard. As noted above, in standard § 1229a proceedings or in "withholding-only" proceedings before the

immigration court, the evidence often includes hundreds of pages of documentation that detail the noncitizen's own testimony, the testimony of witnesses, expert reports, and other country conditions. Expecting a noncitizen to produce such an application mere hours or a day or two after finding out about the new country to which DHS plans to remove them does not provide a person with "sufficient time and information to reasonably be able to contact counsel, file . . . , and pursue appropriate relief." *A.A.R.P.*, 605 U.S. at 95.

Violation of the Acardi Doctrine

114. Due process requires that if DHS seeks to re-arrest a person like Petitioner an individual who has lived in the United States without incident after DHS granted an order of supervision in 2004 and otherwise complied with the terms of his release—the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention or revocation is justified, and whether the person is a flight risk or danger to the community.

115. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

116. Consistent with this principle, individuals released on parole or other forms of conditional release have a liberty interest in their "continued liberty." *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

117. Such liberty is protected by the Fifth Amendment because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the

ability to be gainfully employed and live with family, "and its termination inflicts a 'grievous loss' on the [released individual] and often on others." *Id.*

118. To protect against arbitrary re detention and to ensure the right to liberty, due process requires "adequate procedural protections" that test whether the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

119. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual's release. *See Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard . . . . at a meaningful time in a meaningful manner." (citation modified)); *see also*, e.g., *Morrissey*, 408 U.S. at 485 (requiring "preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole conditions" and that such determination be made "by someone not directly involved in the case" (citation modified)).

120. The Petitioner was issued a custody redetermination but never was he informed of the reasons as to why his order of supervision was being revoked nor was he ever provided with any hearing or notice before a neutral decision maker. On the contrary, the Petitioner was taken from his by unidentified men and dragged into a car without context.

CLAIMS FOR RELIEF

COUNT I
Writ of Habeas Corpus—Violation of the INA

121. Mr. Johnson repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein. 97. 8 U.S.C. § 1231(b)(3) prevents removal to a country where a noncitizen is more likely than not to face persecution.

122. Notwithstanding this statutory mandate, Respondents seek to remove Mr. Johnson to a third country without providing Mr. Johnson the opportunity to access the protections required pursuant to 8 U.S.C. § 1231(b)(3) and its implementing regulations.

123. Accordingly, Mr. Johnson's planned third country removal is unlawful.

COUNT II
Writ of Habeas Corpus—Violation of FARRA

124. Mr. Johnson repeats and re-alleges the allegations fully set forth herein.

125. FARRA prevents removal to a country where a noncitizen is more likely than not to face torture.

126. Notwithstanding this statutory mandate, Respondents seek to remove Mr. Johnson to a third country without providing Mr. Johnson the opportunity to access the protections required pursuant to FARRA and CAT.

127. Accordingly, Mr. Johnson's planned third country removal is unlawful.

COUNT III
Writ of Habeas Corpus—Violation of the Due Process Clause

128. Mr. Johnson repeats and re-alleges the allegations fully set forth herein.

129. The Due Process Clause requires Respondents to provide Mr. Johnson meaningful notice and a meaningful opportunity to be heard regarding the statutory protections to which Mr. Johnson is entitled.

130. Respondents seek to remove Mr. Johnson to a third country without providing meaningful notice or a meaningful opportunity to seek protection under the mandatory provisions of 8 U.S.C. § 1231(b)(3) and FARRA's provisions with respect to CAT

131. Accordingly, Mr. Johnson's planned third country removal is unlawful.

COUNT VI

Writ of Habeas Corpus—Violation of the APA and the Acardi Doctrine

132. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein

133. The Administrative Procedure Act ("APA") provides that a court "shall . . . hold unlawful and set aside agency action . . . found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes, such that the agencies are bound to follow their own "existing valid regulations." United States ex rel. *Accardi Shaugnessy*, 347 U.S. 260, 265–66, 268 (1954). The Accardi doctrine also obligates agencies to comply with procedures it outlines in its internal manuals. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (finding that an agency is obligated to comply with procedural rules outlined in its internal manual).

134. Respondents' course of enforcement action against Mr. Johnson including detaining him and taking steps to remove him, contravenes the humanitarian protections he is entitled to pursue with no justification whatsoever.

135. To the extent that Respondents have revoked Mr. Johnson's order of supervision without notice or an opportunity to be heard, they violated the statute and the applicable regulations 8 C.F.R. §§ 241.4(l), 241.13(i) by failing to provide him with a particularized notice of the reason(s) of the revocation of his release or an opportunity to respond to the allegations contained therein. Respondents detained Petitioner under their discretion but provided no further information regarding what factors led them to exercise that discretion.

136. Respondents' action is therefore arbitrary and capricious.

137. Mr. Johnson has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Mr. Johnson prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Enjoin Mr. Johnson's removal until Respondents provide him access to his statutory rights to protection and due process of law:

i. With respect to any removal to Sierra Leon, Respondents must provide Mr. Johnson with a reasonable fear interview and provide him at least ten days' notice of such interview to allow him to prepare for it, and notice must be provided in Mr. Johnson's native language;

ii. If Mr. Johnson is found to have a reasonable fear of removal, then Respondents must move to reopen Mr. Johnson's removal proceedings to

allow Mr. Johnson to present a full claim for relief under § 1231(b)(3) and FARRA;

iii. If Mr. Johnson is not found to have such a fear, then Respondents must allow a further fifteen days for Mr. Johnson to file a motion to reopen with the immigration court or Board of Immigration Appeals, as appropriate;

iv. With respect to removal to any other third country (any country other than Liberia), Respondents must provide written notice of removal to that country at least ten days prior to the removal, and notice to Mr. Johnson must be in Mr. Johnson's native language;

v. If, after inquiring whether Mr. Johnson has a fear of removal to that third country, Mr. Johnson express such a fear, then Respondents must provide a reasonable fear interview to screen for Mr. Johnson's fear of persecution and torture, consistent with § 208.31;

vi. If Mr. Johnson is found to have a reasonable fear of removal, then Respondents must move to reopen Mr. Johnson's removal proceedings to allow Mr. Johnson to present a full claim for relief under § 1231(b)(3) and FARRA;

vii. If Mr. Johnson is not found to have such a fear, then Respondents must allow a further fifteen days for Mr. Johnson to file a motion to reopen with the immigration court or Board of Immigration Appeals, as appropriate;

c. Award Mr. Johnson attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;

d. Order the immediate release of Petitioner pending these proceedings; and

e. Grant any other and further relief that this Court deems just and proper.

DATED this 23rd day of July, 2026.

/s/ Peter Tadeo, Esq.
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

DATED this 23rd day of July, 2026.

/s/ Peter Tadeo, **Esq.**
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