UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

DINU RELU RASCOL,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; MICHAEL L. WHITE, in his official capacity St. Clair County Sheriff;TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, in his official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, in his official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 26-13534

Hon.

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner Dinu Relu Rascol is a native and citizen of Romania and a [redacted] On November 6, 2017, an Immigration Judge granted him withholding of removal under INA § 241(b)(3) based on his well-founded fear of persecution in his country of nationality on account of [redacted] and other protected grounds. Ex. 1 (Order).

2. Despite that grant of protection, ICE arrested Petitioner at his private residence on September 10, 2026, without any judicial warrant and without any administrative warrant. Agents used a telephone ruse to induce Petitioner to allow their house entering and then effected the arrest. Ex. 2 (Declaration of Petitioner); Ex. 4 (Declaration of Mirela Rat).

3. ICE agents have informed Petitioner that they intend to remove him to Rwanda and threatened to remove Petitioner there imminently. Rwanda was never designated in the 2017 removal order.

4. Critically, DHS has not provided Petitioner with notice that Rwanda is a proposed country of removal and has not afforded him the time or opportunity required by statute, regulation, and binding precedent to

prepare and present a defense by seeking withholding of removal or CAT protection as to Rwanda. Ex. 2; Ex. 3 (Declaration of Counsel).

5. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is "in custody" under color of federal authority and challenges the legality of that custody. The threatened execution of removal to a third country without the process required by statute, regulation, and BIA precedent renders his continued detention and the imminent removal unlawful. *See Zadvydas v. Davis,* 533 U.S. 678, 688–90 (2001); *INS v. St. Cyr*, 533 U.S. 289, 305–08 (2001).

6. Petitioner seeks a writ of habeas corpus directing Respondents to justify the legality of his custody, an order enjoining removal to Rwanda or any other third country until he receives the process required by law, and such other relief as justice requires.

II. JURISDICTION AND VENUE

7. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 and 28 U.S.C. § 1331.

8. Venue is proper under 28 U.S.C. § 2241(d) because Petitioner is in custody within this District and a substantial part of the events giving rise to the claims occurred here.

III. PARTIES

9. Petitioner Dinu Relu Rascol is currently detained at St. Clair County Jail, 1170 Michigan Road, Port Huron, MI 48060, under the custody of Respondents.

10. Respondent Robert Lynch is the Field Office Director for the Detroit Field Office, U.S. Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"), with authority over custody decisions in Michigan and Ohio. He is sued in his official capacity.

11. Respondent Michael L. White is the St. Clair County Sheriff and the chief custodial officer of St. Clair County Jail, where Petitioner is detained. The St. Clair County Jail holds ICE detainees pursuant to an intergovernmental service agreement. He is sued in his official capacity.

12. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, with authority over ICE operations nationwide. He is sued in his official capacity.

13. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS"), with authority over DHS and ICE. He is sued in his official capacity.

14. Respondent Todd Blanche is the Attorney General of the United States, with authority over immigration enforcement and the Executive Office for Immigration Review. He is sued in his official capacity.

15. Respondents U.S. Immigration and Customs Enforcement and U.S. Department of Homeland Security are the federal agencies responsible for Petitioner's custody and the execution of removal orders.

16. The Warden or Facility Administrator of St. Clair County Jail is the immediate physical custodian and is a proper respondent under § 2241.

IV. FACTUAL BACKGROUND

16. On November 6, 2017, an Immigration Judge granted Petitioner withholding of removal to his country of nationality based on persecution on account of [redacted] and other protected grounds. Ex. 1.

17. Petitioner has complied with all ICE reporting and supervision requirements since 2017. Ex. 2; Ex. 4; Ex. 5

18. On September 10, 2026, an ICE agent telephoned Petitioner under the pretense of verifying appointment information. Based on that representation, Petitioner allowed officers to approach. Officers then entered the residence and arrested him. No judicial warrant and no administrative warrant was presented or existed. Ex. 2; Ex. 4.

19. After the arrest, ICE informed Petitioner that it intends to remove him to Rwanda. Petitioner has never received formal written notice identifying Rwanda as a proposed country of removal and has never been given the time or opportunity required by law to apply for withholding of removal or CAT protection as to Rwanda. Ex. 2; Ex. 3.

20. Petitioner has no ties to Rwanda. He fears persecution, torture, or onward removal from Rwanda to a country where his life or freedom would be threatened on account of his Roma ethnicity. Ex. 2; Ex. 3; Ex. 4.

21. Removal to Rwanda is imminent. Ex. 2; Ex. 3, Ex. 4.

22. Respondent has a fear of persecution and torture in Rwanda. **Exhibit 2** (Declaration of Respondent); **Exhibit 3** (Declaration of Attorney). This fear is based on the high degree of probability of persecution, mistreatment, or harm because of [redacted]

23. He almost certainly will be subjected to torture or cruel, inhuman, or degrading treatment because of [redacted] and he may be sent onward from Rwanda to Romania, where his life and freedom would be threatened on account of [redacted]. **Exhibit 3** (Declaration of Respondent), **Exhibit 3** (Declaration of Attorney).

24. International human rights bodies and high-level judicial reviews have thoroughly documented systemic instances where Rwanda violated the international principle of non-refoulement by forcibly returning vulnerable individuals to face danger. Key documented examples include: *The Israel-Rwanda Deal Precedent:* During a voluntary departure scheme between 2013 and 2018, Israel transferred thousands of Eritrean and Sudanese asylum seekers to Rwanda. Evidentiary records presented to the UK Supreme Court showed that upon arrival, these individuals routinely had their documents confiscated, were denied access to the asylum process, and were secretly expelled or forced to flee into neighboring countries (such as Uganda or Libya), exposing them to human trafficking and severe abuse. **Exhibit 6** (The Supreme Court rules the UK-Rwanda . . .). *UNHCR Evidence Dossier:* The United Nations High Commissioner for Refugees presented a detailed evidentiary dossier to international and UK courts documenting ongoing refoulement and summary rejections of asylum seekers in Rwanda. This included the summary expulsion of refugees from conflict zones like Syria, Yemen, and Afghanistan, with Rwanda recording a **100% rejection rate** despite their clear threat of origin country persecution. **Exhibit 7** (UN Warns of New Abuse).

V. LEGAL FRAMEWORK AND CLAIMS

Withholding of Removal and the Convention Against Torture

25. 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). Asylum typically provides full protection against deportation to any country. *See* 8 U.S.C. § 1158(c). This means the person cannot be deported.

26. 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).

27. 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.

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

29. 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 v. Barr*, 590 U.S. 573, 575 (2020).

30. 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. *See* 8 U.S.C. § 1231(b); FARRA § 2242(b); 8 C.F.R. §§ 208.16(c)–208.18, 1208.16(c)–1208.18; *see also, e.g.*, *Jama v. ICE*, 543 U.S. 335, 341, 348 (2005).

31. The statute specifies that, in assessing a noncitizen's claim of withholding

of removal, "the trier of fact shall determine whether the [noncitizen] has sustained the [noncitizen's] burden of proof, and shall make credibility determinations." 8 U.S.C. § 1231(b)(3)(C).

The INA's Scheme for Determining the Country of Removal

32. As relevant here, the INA "provides four consecutive removal commands" about where to remove a noncitizen. *Jama*, 543 U.S. at 341.

33. 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).

34. 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).

35. 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).

36. 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).

The Nationwide Class Action *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass.)

37. On March 23, 2025, four noncitizens filed *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass.), a putative nationwide class action challenging, inter alia, DHS's practice of failing to provide noncitizens with certain final orders of removal with meaningful notice and opportunity to raise a fear-based claim before DHS could deport them to

any country not designated on their removal order (aka third country). Plaintiffs alleged that they are entitled to such protections pursuant to 8 U.S.C. § 1231(b)(3), FARRA, and the Due Process Clause prior to any third-country removal.

38. On March 30, 2025, in response to the court's issuance of a temporary protective order (TRO) ensuring protections, DHS issued a memo entitled "Guidance Regarding Third Country Removals." *Guidance Regarding Third Country Removals*, (Mar. 30, 2025), https://immigrationlitigation.org/wp-content/uploads/2025/04/43-1-Exh-A-Guidance.pdf (hereinafter, "March 30 Memo").

39. Pursuant to the March 30 Memo, DHS does 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." March 30 Memo at 1.

40. If the United States has not received such assurances, 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.*

41. 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.

42. This process differs dramatically from the typical standard of review applied in reopened removal proceedings in which an immigration judge can assess an individual's fear-based claim in the first instance.

43. The process also differs from the reasonable fear 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 persons with reinstatement orders or administrative removal orders under 8 U.S.C. §§ 1231(a)(5), 1228(b), respectively). 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.

44. On April 18, 2025, the district court in *D.V.D.* certified a nationwide class of noncitizens as follows:

> All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) whom DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

***D.V.D. v. DHS*, 778 F. Supp. 3d 355, 378 (D. Mass. 2025).**

45. The district court also issued a classwide injunction requiring the government to undertake certain procedures before removing a person to a third country, rejecting the March 30 Memo policy as sufficient. *Id.* at 392–93. *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 obtained a stay of the preliminary injunction from the Supreme Court on June 23, 2025 but the Court did not provide any reasoning. *See DHS v. D.V.D.*, 145 S. Ct. 2153 (2025). The preliminary injunction was later dissolved. *See D.V.D. v. DHS*, No. CV 25-10676-BEM, ---F. Supp. 3d---, 2026 WL 521557 (D. Mass. Feb. 25, 2026).

46. Following that decision, on July 9, 2025, ICE issued guidance regarding how to implement the March 30 Memo. ICE, *Third Country Removals Following the Supreme Court's Order in Department of Homeland Security v. D.V.D., No. 24A1153 (U.S. June 23, 2025)* (July 9, 2025),

https://immigrationlitigation.org/wp-content/uploads/2025/07/190-1-July-9-Guidance.pdf (hereinafter, "July 9 Guidance"). 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. July 9 Guidance at 1.

47. It further provides that 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.*

48. On February 25, 2026, the district court in *D.V.D.* entered a final judgment on the class's claims. *D.V.D. v. DHS*, No. CV 25-10676-BEM, ---F. Supp. 3d ----, 2026 WL 521557 (D. Mass. Feb. 25, 2026).

49. The court granted the plaintiffs' motion for summary judgment in part, setting aside as "unlawful" DHS' third-country removal policy, as embodied in the March 30 Memo and July 9 Guidance *Id.* at *44. The court further declared that class members have the right to both "meaningful notice before removal to any third country" as well as "a meaningful opportunity to raise a country-specific claim against removal before removal to any third country." *Id.* at *44; *id.* at *27–40 (analyzing

both statutory and constitutional bases for these rights and how DHS' policy violated them).

50. The court concluded that "the March Guidance extinguishes valid challenges to third-country removal by effecting removal before those challenges can be raised," for the guidance "does nothing to safeguard" withholding of removal claims and is at best "insufficient" in safeguarding CAT claims. *Id.* at *39.

51. The court also declared that, prior to a third-country removal, Respondents are required to follow 8 C.F.R. § 1240.12(d) by "first seek[ing] removal to that class member's designated country of removal or specified alternative country or countries of removal, as provided in that class member's final order of removal," as well as 8 U.S.C. § 1231(b) by "first seek[ing] removal to that class member's designated country of removal or country or countries of citizenship, if any." *Id.* at *44; *see also id.* at *24–26 (providing its reasoning).

52. Defendants filed an appeal of the district court's decision and requested an emergency stay of the district court's order. *See D.V.D., et al v. U.S. Department of Homeland Security, et al.*, Case No. 26-1212 (1st Cir.).

53. #.On March 16, 2026, the First Circuit granted an emergency stay of the

district court's order, and sua sponte issued an expedited scheduling order on the underlying appeal, with briefing to be completed by April 20, 2026, and instructions that arguments would be set soon thereafter.

COUNT I

Violation of the INA

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

55. 8 U.S.C. § 1231(b)(3) and the implementation regulations prevents removal to a country where a noncitizen is more likely than not to face persecution.

56. Notwithstanding this statutory mandate, DHS seeks to remove Petitioner to a third country without providing Petitioner meaningful notice and opportunity to access the protections required pursuant to 8 U.S.C. § 1231(b)(3) and its implementing regulations.

57. Accordingly, because Respondents are violating o 8 U.S.C. § 1231(b)(3) and its implementing regulations and for the reasons provided by the district court in *D.V.D.*, DHS' attempt to remove Petitioner to a third country is unlawful.

COUNT II

Violation of FARRA

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

59. FARRA and the implementing regulations prevent removal to a country where a noncitizen is more likely than not to face torture.

60. Notwithstanding this statutory mandate, DHS seeks to remove Petitioner to a third country without providing Petitioner meaningful notice and opportunity to access the protections required pursuant to FARRA and the CAT regulations.

61. Accordingly, Respondents are violating FARRA and the CAT regulations and for the reasons provided by the district court in *D.V.D.*, DHS' attempt to remove Petitioner to a third country is unlawful.

COUNT III

Unlawful Custody and Threatened Removal in Violation of INA § 241(b)(3), 8 C.F.R. § 1208.16(f), and *Matter of A-S-M-*

62. INA § 241(b)(3)(A), 8 U.S.C. § 1231(b)(3)(A), prohibits removal to any country where the alien's life or freedom would be threatened on account of a protected ground.

63. In *Matter of A-S-M-*, 28 I&N Dec. 282 (BIA 2021), the Board held that when DHS indicates an applicant may be removed to a country under § 241(b)(2), the applicant is entitled to seek withholding of removal and CAT protection as to that country in withholding-only proceedings, even if the country differs from the one originally designated.

64. 8 C.F.R. § 1208.16(f) permits removal to a third country but does not authorize such removal without notice and an opportunity to demonstrate eligibility for protection.

65. Respondents have not provided Petitioner with the written notice and meaningful opportunity to prepare and present a defense required by statute, regulation, and *Matter of A-S-M-*. This omission violates these authorities and renders his continued custody and the threatened removal unlawful.

66. Moreover, Respondent put ICE on notice that Respondent has a fear of removal to Rwanda through a "kite" written massage, yet ICE disregarded that notification.

67. INA § 241(b)(3)(A) (codified at 8 U.S.C. § 1231(b)(3)(A)) provides that "the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be

threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion."

68. This nonrefoulement obligation applies to **any country to which DHS proposes to remove the alien**, not only the country originally designated in the removal order. (Emphasis added).

COUNT IV

Violation of the Fifth Amendment Due Process Clause

69. The Fifth Amendment requires notice and a meaningful opportunity to be heard before the government may deprive a person of liberty by removing him to a country where he faces persecution or torture.

70. The complete absence of written notice that Rwanda is a proposed country of removal and the absence of any process for Petitioner to raise fear-based claims violate due process.

COUNT V

Fourth Amendment Violation in the Manner of Arrest Supporting Unlawful Custody

71. The Fourth Amendment prohibits nonconsensual entry into a private residence to effect an arrest without a judicial warrant, absent valid consent or true exigent circumstances. Payton v. New York, 445 U.S. 573 (1980).

72. ICE effected a completely warrantless arrest inside Petitioner's home after using a telephone ruse. No judicial warrant and no administrative warrant existed. Any purported consent was invalid.

73. Custody that began with a Fourth Amendment violation, combined with the imminent unlawful third-country removal, renders continued detention unlawful under § 2241.

VI. THIS IS A PROPER HABEAS CORPUS ACTION

74. Section 2241 authorizes the writ for any person "in custody in violation of the Constitution or laws or treaties of the United States." Petitioner is in physical custody. He challenges the legality of that custody because Respondents are using it to effect an imminent removal that violates statute, regulation, BIA precedent, and the Constitution.

75. Habeas corpus has long been the vehicle to challenge both the fact of detention and the legality of the government's attempt to execute a removal order in violation of law. *Zadvydas,* 533 U.S. at 688–90; *St. Cyr,*

533 U.S. at 305–08. The threatened third-country removal without process is inseparable from the custody itself.

VII. EXHAUSTION

76. No adequate administrative remedy exists. Removal is imminent. Any post-removal review would be meaningless once Petitioner is outside the United States and beyond the Court's practical ability to grant effective relief.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a writ of habeas corpus directing Respondents to show cause why the writ should not be granted and why Petitioner should not be released or why removal should not be enjoined;

B. Enjoin Respondents from removing Petitioner to Rwanda or any other third country until he is provided written notice and a meaningful opportunity, with adequate time to prepare and present a defense, to seek withholding of removal and CAT protection as to that country, consistent with *Matter of A-S-M-* and 8 C.F.R. § 1208.16(f);

C. Order that, if Respondents intend to remove Petitioner to Rwanda, they must first initiate withholding-only proceedings as to Rwanda;

D. Grant such other and further relief as the Court deems just and proper, including attorneys' fees under the Equal Access to Justice Act.

Dated September 17, 2026

Respectfully submitted,

/s/ Alberto Delgado

Alberto J. Delgado (P74169)
Law Office of Richard Kessler, PC
4145 Kalamazoo SE
Grand Rapids, MI 49508
(616) 235-4577
Counsel for Petitioner