

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Jose Manuel RAMOS BASTIDAS,

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of Homeland Security, *in her official capacity*; Terrence DICKERSON, Warden, Stewart Detention Center, *in his official capacity*; LaDeon FRANCIS, Field Office Director of U.S. Immigration and Customs Enforcement, Atlanta Field Office, *in his official capacity*; Marcos CHARLES, Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, *in his official capacity*; Todd LYONS, Acting Director, U.S. Immigration and Customs Enforcement, *in his official capacity*; Pamela BONDI, Attorney General of the United States, *in her official capacity*; Marco RUBIO, Secretary of State, *in his official capacity*; and Donald J. TRUMP, President of the United States, *in his official capacity*,

Respondents.

Civil Action No. 4:24-cv-185-CDL-AGH

**VERIFIED FIRST AMENDED
PETITION FOR WRIT OF HABEAS
CORPUS
PURSUANT TO 28 U.S.C. § 2241**

HEARING REQUESTED

1. On March 15, 2025, the United States government disappeared Petitioner Jose Manuel Ramos Bastidas (“Petitioner” or “Mr. Ramos Bastidas”) to a notorious prison in El Salvador. His family has not seen or heard from him since the day before Respondents hastened to detain him at the Centro de Confinamiento del Terrorismo (Terrorism Confinement Center, or “CECOT”), in Tecoluca, El Salvador.

2. Mr. Ramos Bastidas is 30 years old. He is a devoted father to a young child; a loving husband; a dutiful son. He is a hardworking young man who “believe[d] in the opportunities”

seemingly promised to those who seek “to give a better life to [their] family” in the United States. ECF No. 1 at 8. Respondents whisked him away and entombed him, at the United States’ request and expense, in CECOT, a notorious prison widely known to be a site of torture.

3. Mr. Ramos Bastidas was subject to an order of expedited removal to Venezuela and was ready and willing to return to his home country. *See* ECF No. 1 at 4–5; ECF No. 6-3. But rather than effectuate his deportation to Venezuela, Respondents are paying for Mr. Ramos Bastidas’ detention in El Salvador with U.S. taxpayer dollars.

4. Mr. Ramos Bastidas has been hidden away in CECOT for over three months. His continued detention at CECOT is a lawless disappearance, and at high risk of being indefinite. It is in flagrant violation of the United States Constitution. It is punishment without trial.

5. In the *pro se* petition for habeas corpus that Mr. Ramos Bastidas filed in December 2024, he alleged that he had been detained for nine months after his removal order became final in April 2024, and he anticipated his detention would continue absent judicial review, because his home country of Venezuela was, in December 2024, “not taking deportations.” ECF No. 1 at 8; ECF No. 6-3; *see Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

6. Upon information and belief, on March 15, 2025, rather than releasing Mr. Ramos Bastidas, the U.S. government took the extraordinary step of transferring him to CECOT without any prior notice. *See* ECF No. 18-1 at 3, ¶ 6 (stating that Respondents removed Mr. Ramos Bastidas to El Salvador). Mr. Ramos Bastidas was one of approximately 260 individuals—including 238 from Venezuela—whom Respondents disappeared into CECOT on the evening of March 15, 2025.¹

7. Upon information and belief, after landing in El Salvador, Mr. Ramos Bastidas was

¹ Nayib Bukele (@nayibbukele), X (Mar. 16, 2025, 8:13 AM), <https://x.com/nayibbukele/status/1901245427216978290>.

“stripped and shackled,” his head was shaved, and he was placed in “some of the most inhumane and squalid conditions known in any carceral system.” *See Abrego Garcia v. Noem*, --- F. Supp. 3d ---, 2025 WL 1014261, at *3 (D. Md. Apr. 6, 2025).² CECOT is a legal black hole; there is no access to counsel, no visitation, and no way for anyone on the outside to communicate with Mr. Ramos Bastidas.

8. The government avers that Mr. Ramos Bastidas’ transfer to El Salvador was his “removal,” and that it occurred pursuant to “the authority vested in DHS under Title 8 of the U.S. Code.” ECF No. 9 at 3; ECF No. 18-1 at 2, ¶¶ 5–6.

9. But this is not a “removal” as contemplated in the immigration statutes. Mr. Ramos Bastidas is being held incommunicado at CECOT at Respondents’ behest and pursuant to payments from the U.S. government to the Salvadoran government since Respondents flew him to El Salvador on March 15.

10. Moreover, Mr. Ramos Bastidas had no prior contact with El Salvador; his country of origin, to which he should have been deported and to which he wanted to be deported, is Venezuela. *See* ECF No. 6-2 (I-213); ECF No. 1 at 4–5. Upon information and belief, he was denied notice and the opportunity to challenge his removal to a third country, including the opportunity to raise Convention Against Torture claims.

11. Mr. Ramos Bastidas’ detention at CECOT runs afoul of bedrock due process prohibitions against arbitrary, punitive, and indefinite civil detention. Moreover, there is no statutory authority that could possibly justify his continued custody under, or by color of the authority of, the U.S. government, let alone at CECOT.

² *See also* Will Croxton, *Photojournalist witnesses Venezuelan migrants’ arrival in El Salvador: “They had no idea what was coming”*, CBS News (Apr. 6, 2025), <https://www.cbsnews.com/news/photojournalist-witnesses-venezuelan-migrants-arrival-in-el-salvador-60-minutes>.

12. Mr. Ramos Bastidas respectfully requests that this Court grant him a writ of habeas corpus, ordering Respondents to immediately release him from custody and facilitate and effectuate either his prompt removal to Venezuela or return to and release within the United States.

JURISDICTION AND VENUE

13. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (declaratory relief), and Article I, section 9, clause 2 of the U.S. Constitution (Suspension Clause), as Mr. Ramos Bastidas is presently in custody under or by color of the authority of the United States, and he challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

14. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. 678; *Demore v. Kim*, 538 U.S. 510 (2003). In *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018), the Supreme Court again upheld the federal courts’ jurisdiction to review such claims.

15. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Mr. Ramos Bastidas was detained at Stewart Detention Center (“SDC”) in Lumpkin, Georgia at the time he initiated this habeas action. *See Ex parte Endo*, 323 U.S. 283 (1944) (jurisdiction continues in former district of confinement if a habeas petitioner is moved after a petition is properly filed); *Ibarra v. Warden, SDC*, No. 4:18-cv-167-CDL-MSH, 2018 WL 8370330, at *1 (M.D. Ga. Dec. 12, 2018) (citing *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004)) (same).

PARTIES

16. Petitioner Jose Manuel Ramos Bastidas is a Venezuelan citizen currently detained at CECOT. Mr. Ramos Bastidas was served with Form I-860 Notice and Order of Expedited

Removal on April 12, 2024. ECF No. 6-3. Mr. Ramos Bastidas has now been continuously detained by Respondents or at their behest for over a year, since approximately March 19, 2024.

17. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”), which is responsible for the administration of U.S. Immigration and Customs Enforcement (“ICE”), a subunit of DHS, and the implementation and enforcement of immigration laws. Respondent Noem is a legal custodian of Mr. Ramos Bastidas. She is sued in her official capacity.

18. Respondent Terrence Dickerson is the Warden of SDC. Pursuant to a contract with ICE, Respondent Dickerson is responsible for the operation of SDC. At the time this habeas action was initiated, Respondent Dickerson had custody and control over Mr. Ramos Bastidas as his immediate custodian. He is sued in his official capacity.

19. Respondent LaDeon Francis is the Field Officer Director of the ICE Atlanta Field Office. Respondent Francis is responsible for ICE activities in the Atlanta Area of Responsibility, which encompasses Georgia, North Carolina, and South Carolina and its detention facilities, including Stewart Detention Center. Accordingly, at the time this habeas corpus action was initiated, Respondent Francis was a legal custodian of Mr. Ramos Bastidas. He is sued in his official capacity.

20. Respondent Marcos Charles is the Acting Executive Associate Director of ICE Enforcement and Removal Operations (“ERO”). He is the head of the ICE office that carries out arrests and detention of noncitizens and removals from the United States. Respondent Charles is a legal custodian of Mr. Ramos Bastidas. He is sued in his official capacity.

21. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of immigration

laws, including immigrant detention. Respondent Lyons is a legal custodian of Mr. Ramos Bastidas. He is sued in his official capacity.

22. Respondent Pamela Bondi is the Attorney General of the United States. Attorney General Bondi is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g). Respondent Bondi is a legal custodian of Mr. Ramos Bastidas. She is sued in her official capacity.

23. Respondent Marco Rubio is the Secretary of State of the United States. Respondent Rubio is the chief foreign affairs advisor for Respondent Trump, President of the United States. Respondent Rubio carries out the President's foreign policies through the State Department. Respondent Rubio supervises United States foreign service and immigration policy and has the authority to conduct negotiations with other countries and interpret and terminate treaties relating to foreign policy. Respondent Rubio is a legal custodian of Mr. Ramos Bastidas. Respondent Rubio negotiated the agreement with El Salvador by which the United States pays El Salvador to detain non-U.S. citizens, including Mr. Ramos Bastidas, at CECOT. Respondent Rubio has the authority to further negotiate with El Salvador regarding the detention and release of people sent from the United States to CECOT, including Mr. Ramos Bastidas. He is sued in his official capacity.

24. Respondent Donald J. Trump is the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State and Department of Homeland Security. Respondent Trump is a legal custodian of Mr. Ramos Bastidas. Respondent Trump negotiated the agreement with El Salvador by which the United States pays El Salvador to detain non-U.S. citizens, including Mr. Ramos Bastidas, at CECOT. Respondent Trump claims to be in ongoing negotiations with El Salvador regarding the possible detention of U.S. citizens in El Salvador prisons. Respondent Trump has the authority to further

negotiate with El Salvador regarding the detention and release of people sent from the United States to CECOT, including Mr. Bastidas. He is sued in his official capacity.

STATEMENT OF FACTS

I. Mr. Ramos Bastidas' Detention, Removal Proceedings, Habeas Proceedings, and Transport to CECOT

25. Mr. Ramos Bastidas is a citizen of Venezuela. He is from the city of El Tocuyo in the state of Lara. He is 30 years old. He is a loving husband,³ the father of a small child, a brother, and a son. He has been working since he was a teenager in order to support his family.

26. Upon information and belief, Mr. Ramos Bastidas has never been charged with or convicted of a crime in any country. *See* ECF Nos. 1 at 9, 1-2.

27. Mr. Ramos Bastidas arrived in the United States in March 2024. He presented himself at a port of entry at the U.S.-Mexico border, after securing an appointment with the CBP One phone application.⁴ ECF No. 6-2. Immigration officials then processed him for expedited removal under 8 U.S.C. § 1225 and detained him at the El Valle Detention Center in Raymondville, Texas. ECF Nos. 6-1, 6-2.

28. At the border, Customs and Border Protection officials flagged Mr. Ramos Bastidas as a suspected member of the Venezuelan gang Tren de Aragua (“TdA”) based on an unsubstantiated report from Panamanian officials and his tattoos. ECF No. 6-2 at 2. Upon information and belief, Mr. Ramos Bastidas is not a TdA gang member and has no affiliation with TdA.

29. Upon information and belief, Mr. Ramos Bastidas received a credible fear interview shortly after he was detained, at which an asylum officer determined that he did not have a credible

³ Mr. Ramos Bastidas is in a common law, rather than legal, marriage.

⁴ CBP One was a U.S. Customs and Border Protection mobile device application that allowed noncitizens without entry documents to schedule appointments at designated ports of entry on the southern border.

fear of persecution in Venezuela. On April 14, 2024, an immigration judge affirmed the negative credible fear finding. ECF No. 6-4.

30. On April 22, 2024, Mr. Ramos Bastidas was transferred to Stewart Detention Center in Lumpkin, Georgia. ECF No. 6-1 at 2, ¶ 9.

31. Upon information and belief, while Mr. Ramos Bastidas was at Stewart Detention Center, he would call his family as often as he could—sometimes up to two to three times a day. Mr. Ramos Bastidas would also spend time reading a Bible and participating in impromptu Bible study and prayer with other detained individuals.

32. The prolonged time in detention took a toll on Mr. Ramos Bastidas, and he began to suffer from anxiety and hair loss. *See* ECF No. 1-1. Upon information and belief, he would frequently call his family in Venezuela and cry.

33. On December 17, 2024, this Court docketed Mr. Ramos Bastidas' *pro se* habeas petition, in which he stated that he wanted to go home to Venezuela and through which he sought release from detention—either into the United States or to his family back in Venezuela—because Venezuela was not accepting removals from the United States at the time. ECF No. 1.

34. On January 10, 2025, the Court ordered a comprehensive response from the government within 21 days. ECF No. 3. The Respondents sought and received a 14-day extension of that deadline and filed their Response in Opposition on February 14, 2025. ECF Nos. 4–6. Accompanying this Response was a declaration of ERO Deputy Assistant Director John Schultz, which anticipated that Mr. Ramos Bastidas would “be manifested on a flight to Venezuela . . . and additional flights to Venezuela were imminent.” ECF No. 6-5 at 3, ¶ 8.

35. On February 12, 2025, Mr. Ramos Bastidas was transferred to the El Paso Service Processing Center in Texas. ECF No. 6-1 ¶ 11.

36. Upon information and belief, around this time, Mr. Ramos Bastidas began to see other Venezuelans being sent to the U.S. military base in Guantánamo Bay, Cuba, and he feared that he would be sent to Guantánamo Bay rather than be deported home to Venezuela.

37. However, upon information and belief, by March 14, 2025, Mr. Ramos Bastidas believed he was being staged for removal and that he would be sent home to Venezuela.

38. On March 15, 2025, Respondents transported Mr. Ramos Bastidas, along with approximately 259 other people on three separate flights, to CECOT in El Salvador.⁵ See ECF No. 18-1 at 2, ¶ 6.

39. The U.S. government has stated that some of the people in that group were sent to CECOT based on Respondents' designation of them as "alien enemies" under the Alien Enemies Act, 50 U.S.C. § 21, due to purported ties to the Venezuelan gang Tren de Aragua.

40. Mr. Ramos Bastidas, though, was purportedly removed under 8 U.S.C. § 1231(b)(2) ("Title 8 Authority") and Respondents have not invoked the Alien Enemies Act in his case. ECF No. 9 at 3; ECF No. 18-1.⁶ Although Respondents purport to have removed Mr.

⁵ Camilo Montoya-Galvez & Annabelle Hanflig, *Here are the Names of the Venezuelans deported by the U.S. to El Salvador*, CBS News (Mar. 20, 2025), <https://www.cbsnews.com/news/venezuelans-deported-el-salvador-names> (listing "Ramos Bastidas, Jose" as one of the individuals sent by the United States government to CECOT).

⁶ See *Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua*, Proclamation No. 10903, 90 Fed. Reg. 13033 (Mar. 14, 2025). Multiple federal judges have concluded that this invocation of the Alien Enemies Act is likely statutorily and constitutionally invalid. See, e.g., *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682, at *13 (D.C. Cir. Mar. 26, 2025) (Millett, J., concurring) ("The Constitution's demand of due process cannot be so easily thrown aside."); *M.A.P.S. v. Garite*, --- F. Supp. 3d ---, 2025 WL 1622260, at *11–15 (W.D. Tex. June 9, 2025). The validity of the invocation and the process due to individuals alleged to be "alien enemies" is being litigated in other suits, and multiple courts have concluded that individuals designated under the AEA are entitled to procedural safeguards, such as appropriate notice of their designation and the opportunity to challenge their designation. See *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1368–69 (2025); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *Y.A.P.A. v. Trump*, --- F. Supp. 3d ---, 2025 WL 1454014, at *4 (M.D. Ga. May 21, 2025) (Land, J.) (finding that due process under the U.S. Constitution requires a noncitizen be given a "meaningful opportunity . . . to contest a future designation as an alien enemy"). Respondents have not explicitly relied on the Alien Enemies Act as authority for their treatment of Mr. Ramos Bastidas, so those issues are not directly relevant to this case.

Ramos Bastidas under Title 8 authority, a sworn statement submitted by Respondents indicates that their unsubstantiated assertion that Mr. Ramos Bastidas is a member of TdA was in fact a factor in his removal to CECOT. *See* ECF No. 9-1 at ¶¶ 8, 10; *see also* ECF No. 11.

41. Upon information and belief, Mr. Ramos Bastidas did not receive advance notice that he was being sent to El Salvador or to CECOT; even if Mr. Ramos Bastidas was in fact removed, he was not provided an opportunity to raise claims of fear of persecution or torture in El Salvador pursuant to 8 U.S.C. § 1231(b).⁷

42. Mr. Ramos Bastidas is not a citizen, national, subject, or native of El Salvador. Upon information and belief, Mr. Ramos Bastidas had never been to El Salvador before Respondents transferred him to CECOT on March 15. Upon information and belief, El Salvador has no independent basis under its domestic law for detaining Mr. Ramos Bastidas.

43. On April 30, 2025, Respondents moved to dismiss Mr. Ramos Bastidas' habeas petition, asserting that he is "not in [Respondent Dickerson]'s or ICE/ERO custody," and therefore, in Respondents' view, the case is moot. ECF No. 9 at 5.

44. Mr. Ramos Bastidas' *pro se* habeas petition indicates his desire to be sent "home" to Venezuela. ECF No. 1 at 3; ECF No. 1-1 at 1. If physically returned to the United States and released from detention, Mr. Ramos Bastidas would comply with any conditions of release. But

Mr. Ramos Bastidas retains and does not waive the right to defend against any unknown or future invocation of the AEA that the government may make. *See J.G.G.*, 145 S. Ct. at 1006.

⁷ *J.G.G. v. Trump*, No. 1:25-cv-00766-JEB (D.D.C. Apr. 16, 2025), ECF No. 81, at 4 ("As the planes sat on the tarmac, officials refused to answer the deportees' questions about where they would be taken."); *J.G.G.*, 2025 WL 1577811, at *11 (D.D.C. June 4, 2025) (finding that "Defendants plainly deprived" individuals sent to CECOT pursuant to the AEA "of their right to seek habeas relief before their summary removal from the United States"), *appeal docketed*, No. 25-5217 (D.C. Cir.). Section 1231 contemplates the removal of noncitizens to countries besides the one previously designated. 8 U.S.C. § 1231(b)(2). Critically, however, a noncitizen may not be removed to a country if their "life or freedom would be threatened" or if they were likely to be tortured there. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2); *see generally D.V.D. v. U.S. Dep't of Homeland Sec.*, --- F. Supp. 3d ---, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), *appeal docketed*, No. 25-1393 (1st Cir. Apr. 22, 2025).

what Mr. Ramos Bastidas desires is a return to Venezuela, and consistent with the statements in his original *pro se* habeas petition, Mr. Ramos Bastidas would cooperate with his removal to Venezuela, whether that be directly from El Salvador or from the United States.

II. Respondents' Agreement with El Salvador to Detain Noncitizens in CECOT and Transfer of Noncitizens to CECOT

45. In January 2025, the U.S. government was negotiating an agreement with a “Latin American country” which would involve the “transfer of TdA gang members from the U.S.” *See* ECF No. 9-1 at ¶ 8.

46. On February 3, 2025, Respondent Rubio visited El Salvador and met with the President of El Salvador, Nayib Bukele. At that meeting, President Bukele “offered the United States of America the opportunity to outsource part of its prison system,”⁸ including by offering “his jails” to house people sent by the United States.⁹

47. During or after this February meeting, the United States government entered into an agreement by which the Salvadoran government would hold noncitizens in U.S. immigration detention in El Salvador in “very good jails at a fair price that will also save our taxpayer dollars.”¹⁰ As a part of this agreement, El Salvador agreed to “take in only convicted criminals (including convicted U.S. citizens) into our mega-prison (CECOT) in exchange for a fee.”¹¹

48. Respondents are paying the Salvadoran government approximately \$6 million to

⁸ Nayib Bukele (@nayibbukele), X (Feb. 3, 2025, 9:44 PM), <https://x.com/nayibbukele/status/1886606794614587573>.

⁹ Simon Lewis, *El Salvador offers to house criminals deported from the US in its jails*, Reuters (Feb. 3, 2025), <https://www.reuters.com/world/americas/rubio-meet-el-salvadors-bukele-amid-migration-push-2025-02-03>.

¹⁰ Secretary Marco Rubio (@SecRubio), X (Mar. 16, 2025, 7:59 AM), <https://x.com/SecRubio/status/1901241933302825470>; *see also* Nayib Bukele (@nayibbukele), X (Mar. 16, 2025, 7:13 AM), <https://x.com/nayibbukele/status/1901245427216978290>.

¹¹ Nayib Bukele (@nayibbukele), X (Feb. 3, 2025, 9:44 PM), <https://x.com/nayibbukele/status/1886606794614587573>.

hold these individuals for a renewable one-year term, “pending the United States’ decision on their long-term disposition.”¹² Respondent Trump has stated that he would also like to send U.S. citizens convicted of crimes to CECOT, if El Salvador can “house” them “for a lot less money than it costs us[.]”¹³

49. Viewed in terms of who ultimately has custody, the United States government’s agreement with El Salvador is akin to its agreements with private prison contractors. The U.S. has paid or is continuing to pay the Salvadoran government \$6 million dollars to detain these individuals, including Mr. Ramos Bastidas, at CECOT for one year.¹⁴ Further reporting revealed the U.S. would pay a “one-time maintenance fee” of around \$20,000 per person,¹⁵ which is similar to a standard bed-per-day rate paid by ICE to detention contractors.¹⁶ The United States has discussed paying El Salvador up to \$15 million for the detention of additional individuals.¹⁷

50. Much like in standard domestic immigration detention, the United States retains the authority to determine the “long term disposition” of individuals sent from the United States to CECOT.¹⁸ Similarly, the U.S. must retain constructive custody and control over those it has simply

¹² Matthew Lee & Regina Garcia Cano, *US prepares to deport about 300 alleged gang members to El Salvador*, Associated Press (Mar. 15, 2025), <https://apnews.com/article/trump-deportations-salvador-tren-aragua-64e72142a171ea57c869c3b35eeecce7>.

¹³ Billal Rahman, *Donald Trump Says He Loves Idea of Sending Americans to El Salvador Prison*, Newsweek (updated Apr. 8, 2025), <https://www.newsweek.com/donald-trump-sending-americans-el-salvador-prison-2056122>.

¹⁴ Lee & Garcia Cano, *supra* note 12.

¹⁵ Jennifer Hansler & Priscilla Alvarez, *Trump admin proposed sending up to 500 alleged Venezuelan gang members during negotiations to use El Salvador’s mega-prison*, CNN (Apr. 28, 2025) <https://edition.cnn.com/2025/04/28/politics/trump-el-savador-prison-negotiations>.

¹⁶ See U.S. Gov’t Accountability Off., GAO-21-149, *Immigration Detention: Actions Needed to Improve Planning, Documentation, and Oversight of Detention Facility Contracts* 49 (2021), <https://www.gao.gov/assets/gao-21-149.pdf> (reporting that in FY 2019, ICE paid on average \$75 per detained individual per day, which amounts to approximately \$27,375 per detained person per year).

¹⁷ Lee & Garcia Cano, *supra* note 12.

¹⁸ *Id.* (reporting that a memo from El Salvador’s ministry of foreign affairs stated that “El Salvador confirms it will house these individuals for one (1) year, pending the United States’ decision on their long term disposition”); see also *Abrego Garcia*, 2025 WL 1014261, at *3, *6 (discussing the same facts).

contracted with El Salvador to detain.

51. On March 15, 2025, Respondents sent three planes of people, including Mr. Ramos Bastidas, to El Salvador to be detained at CECOT at the behest of the U.S. government.¹⁹ The majority of those individuals were Venezuelans who, like Mr. Ramos Bastidas, had been detained in the United States. While two planes carried individuals who were being sent to CECOT exclusively pursuant to the Alien Enemies Act, “all individuals on that third plane had Title 8 final removal orders and thus were not removed solely on the basis of the Proclamation at issue.”²⁰

52. On March 16, 2025, President Bukele again referenced the United States’ payment in exchange for the detention of 238 Venezuelan individuals, including Mr. Ramos Bastidas, at CECOT, stating that “[t]he United States will pay a very low fee for them, but a high one for us.”²¹

53. Since March 15, 2025, several courts, including the U.S. Supreme Court, have commented on the United States’ control over the noncitizens it sent to CECOT, and affirmed the ability of U.S. federal courts to order the return of individuals currently detained there.²²

¹⁹ Luke Broadwater, *A third deportation plane left the U.S. after a judge’s order. The Trump administration argues there was no violation*, N.Y. Times (Mar. 18, 2025, 6:56 ET), <https://www.nytimes.com/live/2025/03/18/us/trump-president-news?smid=url-share#a-third-deportation-plane-left-the-us-after-a-judges-order-the-trump-administration-argues-there-was-no-violation>; see also Lee & Garcia Cano, *supra* note 12 (describing agreement between the U.S. and El Salvador).

²⁰ Declaration of Acting Field Office Director Robert L. Cerna at ¶ 6, *J.G.G. v. Trump*, No. 1:25-cv-00766-JEB (D.D.C. Mar. 18, 2025), ECF No. 28-1.

²¹ Nayib Bukele (@nayibbukele), X (Mar. 16, 2025, 7:13 AM), <https://x.com/nayibbukele/status/1901245427216978290>.

²² See *Abrego Garcia*, 2025 WL 1014261, at *5 (“The facts are that the United States exerts control over each of the nearly 200 migrants sent to CECOT.”); *Abrego Garcia*, 2025 WL 1024654 (D. Md. Apr. 4, 2025) (ordering the U.S. government to “facilitate and effectuate the return of Plaintiff Kilmar Armando Abrego Garcia to the United States”), *aff’d*, *Noem v. Abrego Garcia*, 603 U.S. ---, 2025 WL 1077101, at *1 (Apr. 10, 2025) (finding that the district court’s order “properly requires the Government to ‘facilitate’ Abrego Garcia’s release from custody in El Salvador and to ensure that his case is handled as it would have been had he not been improperly sent to El Salvador”); *J.O.P. v. U.S. Dep’t of Homeland Sec.*, --- F. Supp. 3d ---, 2025 WL 1180191, at *7 (D. Md. Apr. 23, 2025), *appeal docketed*, No. 25-1519 (4th Cir. May 7, 2025).

54. On or around March 26, 2025, Respondent Kristi Noem toured CECOT.²³ She posted a video of herself on X taken inside CECOT, standing in front of a prison cell containing dozens of imprisoned people. The video's caption states: "President Trump and I have a clear message to *criminal* illegal aliens: LEAVE NOW. If you do not leave, we will hunt you down, arrest you, and you could end up in this El Salvadorian [*sic*] prison." (emphasis added). In the video, Respondent Noem stated:

First of all, I want to thank El Salvador and their president for their partnership with the United States of America to bring our terrorists here and to incarcerate them and have consequences for the violence that they have perpetuated in our communities. I also want everybody to know if you come to our country illegally, this is one of the consequences you could face. First of all, do not come to our country illegally. You will be removed and you will be prosecuted. But know that this facility is one of the tools in our toolkit that we will use if you commit crimes against the American people.²⁴

55. On April 14, 2025, President Bukele visited the White House and met with Respondent Trump.²⁵ At this meeting, Respondent Trump told President Bukele, "[y]ou are helping us out. We appreciate it."²⁶ Respondent Trump also discussed sending U.S. citizens to be imprisoned in El Salvador and asked President Bukele to build more prisons, telling President

²³ U.S. Dep't of Homeland Sec., *Inside the Action: Secretary Noem's visit to El Salvador*, <https://www.dhs.gov/medialibrary/assets/video/59109> (last visited June 20, 2025).

²⁴ Secretary Kristi Noem (@Sec_Noem), X (edited Mar. 26, 2025, 7:08 PM), https://x.com/Sec_Noem/status/1905034256826408982?ref_src=twsrc%5Etfw%7Ctwcamp%5Et. Importantly, immigration violations are civil, not criminal, in nature, and there are no allegations that Mr. Ramos Bastidas has committed any type of criminal activity. See *Arizona v. United States*, 567 U.S. 387, 407 (2012) ("As a general rule, it is not a crime for a removable [noncitizen] to remain present in the United States.")

²⁵ Zolan Kanno-Youngs, *El Salvador's Leader Says He Won't Return Wrongly Deported Maryland Man*, N.Y. Times (updated Apr. 15, 2025), <https://www.nytimes.com/2025/04/14/us/politics/trump-bukele-prison-deported-migrants.html>.

²⁶ Jeff Mason, *El Salvador's president says he can't return man the US mistakenly deported*, KSL.com (Apr. 14, 2025), <https://www.ksl.com/article/51294487/el-salvadors-president-says-he-cant-return-man-the-us-mistakenly-deported>.

Bukele that “homegrown are next . . . You gotta build about five more places.”²⁷

56. On April 16, 2025, U.S. Senator Chris Van Hollen traveled to El Salvador to inquire about the status of Kilmar Abrego Garcia, who was at that time still imprisoned at CECOT. Senator Van Hollen stated: “I asked the vice president [of El Salvador] . . . Why is El Salvador continuing to hold him in CECOT? His answer was that the Trump administration is paying El Salvador, the government of El Salvador, to keep him at CECOT.”²⁸

57. In an interview published in May 2025, El Salvador’s Vice President Félix Ulloa described El Salvador’s imprisonment of migrants sent from the United States as a “service” El Salvador offers the international community, akin to medical, tourism, and technological services. *See Ex. 1 (The Grand Continent Interview with the Vice President of El Salvador).*

58. On or around June 6, 2025, the U.S. facilitated the return of Kilmar Abrego Garcia, previously imprisoned in CECOT, from El Salvador to the United States. *Abrego Garcia v. Noem*, No. 8:25-cv-00951 (D. Md. June 6, 2025), ECF Nos. 181, 183 at 3.

III. Conditions in CECOT

59. CECOT opened in January 2023. *See Ex. 2, Declaration of Juanita Goebertus (“Goebertus Decl.”) ¶ 4.* The Salvadoran government first announced its capacity as 20,000, but later doubled its reported capacity to 40,000. *Id.*

60. According to the Salvadoran government, people held at CECOT “will never leave.” *Id.* ¶ 7. Human Rights Watch, which investigates human rights abuses globally, “is not

²⁷ Michelle Stoddart, “Homegrown are next”: Trump doubles down on sending American “criminals” to foreign prisons, ABC News (Apr. 14, 2025), <https://abcnews.go.com/Politics/homegrown-trump-doubles-sending-convicted-us-citizens-foreign/story?id=120802863>.

²⁸ Senator Chris Van Hollen, *Van Hollen speaks to press after meeting with El Salvador VP about return of Kilmar Abrego Garcia*, YouTube (Apr. 16, 2025), <https://www.youtube.com/live/pYZPzHyCtt0> (starting at 6:13); *see also* Letter from Chris Van Hollen, United States Senator of Maryland, to Donald Trump, President of the United States, at 2–3 (Apr. 29, 2025), https://www.vanhollen.senate.gov/imo/media/doc/letter_to_trump_re_mrabregogarcia.pdf.

aware of any detainees who have been released from that prison.” *Id.* Mr. Kilmar Abrego Garcia, who was recently returned to the United States after being detained at CECOT to face criminal charges, remains the only exception. *See id.*; *Abrego Garcia*, No. 8:25-cv-00951 (D. Md. June 6, 2025), ECF No. 181.

61. The Salvadoran government has described people held in CECOT as “terrorists,” and El Salvador’s justice minister has said the only way out of CECOT is a coffin.²⁹ People held in CECOT are denied communication with their lawyers and family members. Goebertus Decl. ¶ 5.

62. The Salvadoran government denies human rights groups access to CECOT and has generally only allowed journalists and social media influencers to visit under highly controlled circumstances. *Id.* ¶ 7.

63. In videos produced during such visits, Salvadoran authorities say that imprisoned people only leave the cell for 30 minutes a day, and that some are held in solitary confinement. *Id.*

64. Prison conditions in CECOT are reported to include torture, ill-treatment, incommunicado detention, severe due process violations, and inhumane conditions, such as a lack of access to adequate healthcare and food. *Id.* ¶ 8. The U.S. State Department has acknowledged that there are “credible reports” of torture and systemic abuse in the Salvadoran prison system, including “beatings by guards and the use of electric shocks.”³⁰ At CECOT, detained individuals share communal cells that can hold up to 100 people and contain no furniture other than rows of

²⁹ Cecilia Vega, *U.S. sent 238 migrants to Salvadoran mega-prison; documents indicate most have no apparent criminal records*, CBS News (April 6, 2025), <https://www.cbsnews.com/news/what-records-show-about-migrants-sent-to-salvadoran-prison-60-minutes-transcript/>.

³⁰ Bureau of Democracy, Human Rights, and Labor, U.S. Dep’t of State, *El Salvador 2023 Human Rights Report* 4–5, https://www.state.gov/wp-content/uploads/2024/02/528267_EL-SALVADOR-2023-HUMAN-RIGHTS-REPORT.pdf.

stacked metal bunks without mattresses or pillows, and the lights are always on.³¹

65. Since the Salvadoran government instituted a state of emergency in March 2022, it has suspended constitutional due process rights. Goebertus Decl. ¶ 9. Moreover, since March 2022, over 350 people have died in El Salvador's prisons, and over 85,000 people have been detained, including 3,300 children. *Id.* ¶¶ 9–10.

IV. Status of Removals of Venezuelans from the United States

66. U.S.-Venezuela relations in recent years have been marked by deep strife, tit-for-tat retaliation, and, at times, total non-engagement, resulting in long stretches of time during which the United States could not deport Venezuelan nationals to Venezuela.

67. The United States and Venezuela have had no official diplomatic relations since Venezuelan President Nicolás Maduro severed ties with the United States in 2019 after the United States recognized his opponent as the country's leader.

68. Venezuela refused to accept repatriation flights from the United States for four years, until October 2023. Deportations from the United States to Venezuela resumed for a brief period until flights halted again only a few months later.³²

69. From January 2024 until February 19, 2025, Venezuela did not accept a single repatriation flight from the United States. Venezuela's refusal was meted out in response to

³¹ See, e.g., David Culver et al., *In notorious Salvadoran prison, US deportees live in identical cells to convicted gangsters*, CNN (April 8, 2025), <https://www.cnn.com/2025/04/08/americas/el-salvador-cecot-prison-deportees>; William Brangham et al., *The conditions inside the infamous El Salvador prison where deported migrants are held*, PBS (April 8, 2025), <https://www.pbs.org/newshour/show/the-conditions-inside-the-infamous-el-salvador-prison-where-deported-migrants-are-held>.

³² Annie Correal et al., *Deportation Flights From the U.S. to Venezuela in Limbo*, N.Y. Times (Feb. 7, 2024), <https://www.nytimes.com/2024/02/07/world/americas/migrant-crisis-deport-venezuela-flights.html>.

economic sanctions reimposed on Venezuela by the United States after they were lifted in 2023.³³

70. The United States again declined to recognize Maduro as president following Venezuela's disputed July 2024 presidential elections, further deteriorating relations between the two countries.

71. In February 2025, Venezuela agreed to accept the first repatriation flights from the United States in over a year.³⁴ This agreement came on the heels of a U.S. special envoy's visit to Venezuela in January and the Trump Administration's highly publicized decision to begin transferring detained noncitizens to the U.S. military base in Guantánamo Bay, Cuba. All roughly 180 people in the first cohort sent to Guantánamo in early February were Venezuelan.³⁵

72. In early March 2025, Venezuela yet again began refusing repatriation flights after the United States suspended a license permitting the export of some Venezuelan oil. After several weeks, the governments reached an agreement to resume flights. In announcing the agreement, Venezuelan officials cited the United States' recent decision to send hundreds of Venezuelans to CECOT.³⁶

73. Although removal flights to Venezuela were scheduled for March 16, 2025, they were canceled after the March 15, 2025 flights to CECOT, "out of concern that Venezuela's plane could be seized under the authority of the Alien Enemies Act." *See* Ex. 3 at 7–8, 12 (Washington Post article dated May 4, 2024).

³³ Deisy Buitrago & Vivian Sequera, *Venezuela is prepared for US sanctions on oil, may reject migrant flights - officials*, Reuters (Jan. 30, 2024), <https://www.reuters.com/world/americas/venezuela-prepared-reimposition-us-sanctions-its-oil-2024-01-30>.

³⁴ Valerie Gonzalez, *Venezuela sends 2 planes to US to return migrants, signaling a potential improvement in relations*, Associated Press (Feb. 10, 2025), <https://apnews.com/article/trump-immigration-crackdown-venezuela-aragua-a9b5a11b1e14e40c62741ac6f1aa0f74>.

³⁵ *Venezuela reaches deal to accept deportation flights from U.S.*, CBS NEWS (updated Mar. 23, 2025), <https://www.cbsnews.com/news/venezuela-reaches-deal-to-accept-deportation-flights-from-u-s>.

³⁶ *Id.*

74. To date, during 2025, the United States has deported approximately 3,573 Venezuelan nationals to Venezuela, including those who were first sent to Guantánamo.³⁷

75. As recently as May 2025, the United States was able to deport Venezuelans to Venezuela.³⁸

LEGAL FRAMEWORK

V. Section 1225 Removal Proceedings

76. Under Title 8 of the United States Code, Mr. Ramos Bastidas is designated as an “applicant for admission.” 8 U.S.C. § 1225. When an inadmissible applicant for admission presents themselves at a port of entry, DHS may either place the noncitizen in expedited removal proceedings under 8 U.S.C. § 1225(b)(1) or process the noncitizen for full removal proceedings under 8 U.S.C. § 1225(b)(2). If a noncitizen processed for expedited removal under 8 U.S.C. § 1225(b)(1) articulates a fear of return to their country of origin, they undergo a credible fear interview with an asylum officer to screen for fear-based relief eligibility. 8 U.S.C. § 1225(b)(1)(B)(i).

77. Noncitizens who have been given a removal order must then address the question of where they will be removed to. *See* 8 U.S.C. § 1231(b)(1)-(3).³⁹ Section 1231(b)(1) applies to noncitizens “[a]rriving at the United States,” including from a contiguous territory, but expressly

³⁷ Thomas H. Cartwright, *ICE Air Flights May 2025 and Last 12 Months* at 6, Witness at the Border (June 3, 2025), <https://static1.squarespace.com/static/5e221caceff87ba2d2833cf54/t/683e3abe5cbcc22f5dce1067/1748908738621/ICE+Air+MayTHCPDF.pdf>.

³⁸ *Id.*

³⁹ Although the statutory authority for detaining a person subject to expedited removal is different from that authorizing detention for a person with a final order of removal, the removal process regulations apply in both situations. 8 C.F.R. § 235.3(b)(8). References to the Attorney General in Section 1231(b) refer to the Secretary of DHS for functions related to carrying out a removal order and to the Attorney General for functions related to selection of designations and decisions about fear-based claims. 6 U.S.C. § 557. The Attorney General has delegated the latter functions to the immigration courts and Board of Immigration Appeals. *See* 8 C.F.R. §§ 1208.16, 1208.17, 1208.31, 1240.10(f), 1240.12(d).

contemplates noncitizens who arrive at a port of entry via a “vessel or aircraft.” Subsection 1231(b)(2) applies to all other noncitizens, including Mr. Ramos Bastidas, who arrived at the port of entry on foot. Under this subsection, the noncitizen is entitled to select a country of removal. 8 U.S.C. § 1231(b)(2)(A); *see also* 8 C.F.R. § 1240.10(f). If the noncitizen cannot be removed to that country, then the statute provides for alternative countries of removal. 8 U.S.C. § 1231(b)(2)(E) (stating that removal to a third country may be done “[i]f impracticable, inadvisable, or impossible to remove the [noncitizen]” to other listed countries).

78. Both subsections (b)(1) and (b)(2) have a specific provision prohibiting removal of persons to countries where they face persecution or torture. Specifically, 8 U.S.C. § 1231(b)(3)(A) reads:

Notwithstanding paragraphs [b](1) and [b](2), the Attorney General may not remove [a noncitizen] to a country if the Attorney General decides that the [noncitizen’s] life or freedom would be threatened in that country because of the [noncitizen’s] race, religion, nationality, membership in a particular social group, or political opinion.

79. Similarly, with respect to the Convention Against Torture, the implementing regulations allow for removal to a third country, but only “where [the individual] is not likely to be tortured.” 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2).

80. Courts repeatedly have held that individuals cannot be removed to a third country without notice of the impending removal so that they can have the opportunity to raise torture-based claims with regard to the third country. *See, e.g., Kossov v. INS*, 132 F.3d 405, 408–09 (7th Cir. 1998); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting designation of third country where individuals received “ample notice and an opportunity to be heard”); *D.V.D.*, 2025 WL 1142968, at *19–22 (D. Mass. Apr. 18, 2025) (preliminarily enjoining Government policy of “removing [noncitizens] to third countries without

notice and an opportunity to be heard on fear-based claims”).

VI. Statutory Framework for, and Due Process Limits on, Detention after a Removal Order

81. Government custody is only permissible if it is both statutorily authorized and constitutionally sound. Where detention lacks a legal basis or violates the Constitution, laws, or treaties of the United States, “courts must simply carry out the ‘historic purpose of the writ, namely, [relieving unlawful] detention by executive authorities.’” *Adu v. Bickham*, No. 7:18-cv-103-WLS-MSH, 2018 WL 6495068, at *3 (M.D. Ga. Dec. 10, 2018) (quoting *Zadvydas*, 533 U.S. at 699) (alteration in original), *report and recommendation adopted* (Feb. 15, 2019), ECF No. 69.

A. Habeas Corpus Jurisdiction Lies Whenever There Is Custody under Color of the Authority of the United States or Custody in Violation of the Constitution, Laws, or Treaties of the United States

82. The writ of habeas corpus extends to cases where a person is “in custody under or by color of the authority of the United States,” or when a person is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(1), (3).

83. The concept of “custody” under § 2241 is construed “very liberally.” *Howard v. Warden*, 776 F.3d 772, 775 (11th Cir. 2015) (quoting *Diaz v. Fla. Fourth Jud. Circuit ex rel. Duval Cnty.*, 683 F.3d 1261, 1264 (11th Cir. 2012)). Custody merely requires that the government exercise “some . . . ongoing control, restraint, or responsibility” over the petitioner. *Howard*, 776 F.3d at 775 (quoting *Samirah v. O’Connell*, 335 F.3d 545, 549 (7th Cir. 2003)).

84. The language “in custody under *or* by color of the authority of the United States” (emphasis added) in § 2241 is “disjunctive,” meaning the habeas writ extends to cases where a person is in custody “by color of the authority of the United States” even if not in the United States’ “actual custody.” See *Munaf v. Geren*, 553 U.S. 674, 686 (2008) (holding the opposite was also true—that habeas jurisdiction exists when a United States official is the “actual” custodian, even

when a person is arguably held under color of another authority).

85. Thus, a person may be in United States “custody” for purposes of § 2241 when held outside United States territory, *see id.* at 686, and even when in the “actual physical custody” of “a foreign agent at the behest or direction of the United States,” *Abu Ali v. Ashcroft*, 350 F. Supp. 2d 28, 46 (D.D.C. 2004). *See also Boumediene v. Bush*, 553 U.S. 723, 753–71 (2008) (rejecting government’s argument that “the Suspension Clause affords petitioners no rights because the United States does not claim sovereignty over the place of detention”).⁴⁰

86. As this case and others within this district demonstrate, a writ of habeas corpus is available to remedy unlawful detention even when the facility in question is owned and operated by a contractor. *Adu*, 2018 WL 6495068, at *4 (holding that the warden of Irwin County Detention Center, a contracted detention center, “would be unable to carry out the Court’s instructions without more senior [U.S. government] officials taking certain actions,” and granting habeas relief); *Bastidas Ramos*, ECF No. 9 at 1–2 n.1 (noting that while Respondent Dickerson is the proper respondent, the U.S. Department of Justice “does not represent Terrence Dickerson, Warden, Stewart Detention Center, as Stewart is a private facility and Warden Dickerson is not a federal employee”; nevertheless the United States is responding to this case “because [Respondent Dickerson] was detaining the Petitioner at the request of the United States”); *see also Abu Ali*, 350 F. Supp. 2d at 49 (“[I]t is beyond cavil that an individual who is delivered by the executive to a private prison for detention is not stripped of his opportunity to challenge his incarceration through

⁴⁰ The District Court in *J.G.G. v. Trump* recently concluded that, based on the limited record before it, it could not find that noncitizens sent to CECOT under the Alien Enemies Act were “in the constructive custody of the United States.” *J.G.G.*, No. 1:25-cv-00766 (JEB), 2025 WL 1577811, at *11 (D.D.C. June 4, 2025). That non-binding conclusion was centered on the plaintiffs’ failure to put forward “comparably reliable evidence to rebut the Kozak Declaration” *Id.* at *12. The *J.G.G.* Court explained that additional evidence could demonstrate “that the Government has adopted and presented its arrangement with El Salvador as a ‘ruse—and a fraud on the court—designed to maintain control over the detainees beyond the reach of the writ.’” *Id.* (quoting *Kiyemba v. Obama*, 561 F.3d 509, 515 n.7 (D.C. Cir. 2009)).

habeas.”).

B. Due Process Prohibits Arbitrary, Punitive, and Indefinite Detention

87. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

88. Arbitrary civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Mr. Ramos Bastidas’ liberty serve, at minimum, a legitimate purpose. *See Reno v. Flores*, 507 U.S. 292, 306 (1993); *see also id.* at 302 (explaining that infringements on fundamental liberty rights violate due process unless they are “narrowly tailored to serve a compelling state interest”).

89. The recognized governmental interests justifying civil immigration detention are twofold: (1) “preventing flight”—for the purpose of ensuring a noncitizen is present for immigration proceedings and, where ordered, removal—and (2) “protecting the community.” *Zadvydas*, 533 U.S. at 690. As applied to any individual in custody, when immigration detention does not serve one of these purposes, it is unconstitutionally arbitrary.

90. Civil detention for the purpose of punishment also violates due process. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896); *Magluta v. Samples*, 375 F.3d 1269, 1273 (11th Cir. 2004). When there has been no criminal conviction, “if a restriction or condition is not reasonably related to a legitimate goal—if it is arbitrary or purposeless—a court permissibly may infer that the purpose of the governmental action is punishment.” *Magluta*, 375 F.3d at 1273 (quoting *Bell v. Wolfish*, 441 U.S. 520, 539 (1979)); *see J.G. v. Warden, Irwin Cnty. Det. Cntr.*, 501 F. Supp. 3d 1331, 1337 (M.D. Ga. 2020) (“[T]he Government has ‘no . . . punitive interest’ in civil confinement, and [a person in immigration detention] ‘may not be punished.’” (quoting *Foucha v.*

Louisiana, 504 U.S. 71, 80 (1992))). An “intent to punish” is “sufficient to show unconstitutional pretrial punishment.” *Magluta*, 375 F.3d at 1273. Any intent to punish, such as for the purpose of retribution or general deterrence, is impermissible without criminal process and the constitutional rights attendant to that process. *See Kansas v. Hendricks*, 521 U.S. 346, 361–62 (1997) (explaining “the two primary objectives of *criminal* punishment” are retribution and deterrence) (emphasis added); U.S. Const. amend. V, VI.

91. Nor does the Due Process Clause permit prolonged or indefinite civil detention, particularly in the absence of robust procedural protections. *Zadvydas*, 533 U.S. at 690–92 (noting that indefinite immigration detention would raise a “serious constitutional problem” and collecting cases).

C. The Statutory Framework for Detention Following Issuance of a Removal Order

92. Congress has granted DHS various statutory authorities to detain noncitizens while removal proceedings, or removal, are pending. *See* 8 U.S.C. §§ 1225(b), 1226(a), 1226(c), 1231(a). When such authority exists, DHS must “arrange for appropriate places of detention for [noncitizens] detained pending removal or a decision on removal.” *Id.* § 1231(g)(1).

93. That section contemplates that the United States government will own, rent, lease, acquire, build, remodel, repair, and/or operate such facilities within the United States. *Id.* § 1231(g)(1)–(2). Such detention occurs in U.S. government facilities and in facilities operated pursuant to contracts with ICE, in facilities owned and/or operated by either state government, local government, or private detention contractors.

94. No statute authorizes extraterritorial detention or detention pursuant to an agreement with a foreign nation.

95. Section 1225 authorizes the detention of noncitizens in expedited removal “pending a final determination of credible fear of persecution and, if found not to have such a fear, until

removed.” 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

96. Section 1231(a) governs the detention of noncitizens who have a final order of removal, pending their removal. Section 1231(a)(2) authorizes a 90-day period of mandatory post-final-removal-order detention (the “removal period”), during which ICE is supposed to effectuate removal. The government may continue to detain certain noncitizens beyond the 90-day removal period if they have been ordered removed on certain grounds. *See id.* § 1231(a)(6). If these groups of noncitizens are released, they are also subject to the supervision terms set forth in § 1231(a)(3). *Id.*

97. Neither § 1225(b), § 1231(a), nor any other statute authorizes Respondents to detain a noncitizen after they have been removed.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

ULTRA VIRES DETENTION

98. Mr. Ramos Bastidas re-alleges and incorporates by reference each and every allegation contained above.

99. Mr. Ramos Bastidas is in custody “under or by color of the authority of the United States” and in custody “in violation of the Constitution or laws . . . of the United States.” 28 U.S.C. § 2241. Respondents have contracted with the Salvadoran government to detain him: they requested, arranged, and paid for his detention at CECOT and physically delivered him there. There is no other basis for his continuing custody.

100. Respondents lack any statutory or constitutional authority to detain Mr. Ramos Bastidas at CECOT.

101. Mr. Ramos Bastidas’ detention is therefore unlawful, and he is entitled to immediate release from custody.

SECOND CLAIM FOR RELIEF

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO
THE U.S. CONSTITUTION**

102. Mr. Ramos Bastidas re-alleges and incorporates by reference each and every allegation contained above.

103. Mr. Ramos Bastidas is in custody “under or by color of the authority of the United States” and in custody “in violation of the Constitution or laws . . . of the United States.” 28 U.S.C. § 2241. Respondents have contracted with the Salvadoran government to detain him: they requested, arranged, and paid for his detention at CECOT and physically delivered him there, and there is no other lawful basis for his continuing custody.

104. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690.

105. Civil immigration detention must be reasonably related to the statutory purpose of effectuating removal. If removal has already occurred, detention is no longer reasonably related to that purpose. *See id.* (“[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972))).

106. Prolonged civil detention without robust procedural protections similarly violates the Due Process Clause, particularly when it is potentially indefinite or permanent. *Zadvydas*, 533 U.S. at 690–91; *Foucha*, 504 U.S. at 81–83; *Hendricks*, 521 U.S. at 364–69; *United States v. Salerno*, 481 U.S. 739, 750–52 (1987).

107. Civil detention may not be punitive in nature or intent. *Bell*, 441 U.S. at 539; *Wong*

Wing, 163 U.S. at 237.

108. Mr. Ramos Bastidas' continuing detention by Respondents amounts to a substantive due process violation because it is not tied to any legitimate governmental purpose. Even after his transfer to CECOT, Mr. Ramos Bastidas remains in detention under the color of the authority of the United States, and his detention is indefinite; his continued detention serves no legitimate purpose because it is not in service of effectuating his removal or assuring his presence for proceedings; and Mr. Ramos Bastidas presents no danger to the community.

109. Mr. Ramos Bastidas' continuing detention by Respondents amounts to a substantive and procedural due process violation because it is indefinite and potentially permanent, with no procedural protections in place.

110. Mr. Ramos Bastidas' continuing detention by Respondents amounts to a substantive and procedural due process violation because it is punitive in both nature and intent and he has received no criminal process.

111. Mr. Ramos Bastidas' detention is therefore unlawful, and he is entitled to immediate release from custody.

THIRD CLAIM FOR RELIEF

VIOLATION OF THE SIXTH AMENDMENT TO THE U.S. CONSTITUTION

112. Mr. Ramos Bastidas re-alleges and incorporates by reference each and every allegation contained above.

113. If the conditions under which a petitioner would be held would constitute punishment, then they are entitled to all the protections of the Fifth and Sixth Amendments, including trial by jury and proof of charges beyond a reasonable doubt. *See Wong Wing*, 163 U.S. at 237.

114. Mr. Ramos Bastidas' imprisonment at CECOT constitutes criminal punishment in violation of the Sixth Amendment to the U.S. Constitution. Respondents' intent to criminally punish Mr. Ramos Bastidas is clear from the circumstances of his confinement at CECOT and from Respondents' own statements.

115. Respondents' statements indicate that they have made a summary determination that any individual sent to CECOT, including Mr. Ramos Bastidas, is a member of a criminal organization with no due process—significantly less than the process due in criminal prosecutions. *See* ECF No. 9-1. Senior U.S. government officials, including Respondent Trump, have made statements reiterating these accusations and conclusory findings that Venezuelans sent to CECOT are “criminals,” making their intent to punish clear. If, alternatively, Respondents transferred Mr. Ramos Bastidas to CECOT merely on account of his immigration status, and to send a message to other migrants, that is similarly unlawful punishment. *See R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 188–90 (D.D.C. 2015). Respondents have deprived Mr. Ramos Bastidas of his liberty, subjecting him to criminal detention at CECOT in some of the most punitive conditions imaginable. They have also condemned Mr. Ramos Bastidas to indefinite detention at CECOT—which is unquestionably criminal, not civil detention. The cruel and inhumane conditions at CECOT are intended as deterrence and punishment. Mr. Ramos Bastidas' ongoing detention at CECOT therefore constitutes unlawful punishment.

116. The Sixth Amendment guarantees fundamental protections in connection with criminal punishment, including the right to notice of the government's allegations, the right to counsel, and the right to trial by a jury. Respondents have not afforded Mr. Ramos Bastidas any of these processes or protections, despite subjecting him to ongoing punishment, thereby denying him the fundamental protections of the Sixth Amendment.

FOURTH CLAIM FOR RELIEF

VIOLATION OF HABEAS CORPUS

117. Mr. Ramos Bastidas re-alleges and incorporates by reference each and every allegation contained above.

118. Individuals in immigration detention have the right to challenge the legality of their detention.

119. Respondents' detention of Mr. Ramos Bastidas at CECOT has violated and continues to violate his right to habeas corpus. *See* U.S. Const. art. I, § 9, cl. 2 (Suspension Clause); 28 U.S.C. § 2241.

PRAYER FOR RELIEF

WHEREFORE Petitioner requests that the Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order Respondents to show cause why a writ of habeas corpus should not be granted;
- c. Order that as part of their filing showing cause why the Petition should not be granted, Respondents provide all evidence relevant to efforts made to deport Mr. Ramos Bastidas to Venezuela or any other country;
- d. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
- e. In the event that this Court determines that a genuine dispute of material fact exists regarding Respondents' custody of Mr. Ramos Bastidas, the likelihood of removal to Venezuela in the reasonably foreseeable future, or regarding any other material factual issue, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243. *See Singh v. U.S. Att'y Gen.*, 945 F.3d 1310, 1315–16 (11th Cir. 2019);
- f. Grant a writ of habeas corpus ordering Respondents to immediately release Mr. Ramos Bastidas from their custody and facilitate and effectuate his prompt removal and release to Venezuela or his prompt return and release into the United States;

- g. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawfully detaining Mr. Ramos Bastidas;
- h. Declare that Mr. Ramos Bastidas' detention at CECOT is ultra vires;
- i. Declare that Mr. Ramos Bastidas' indefinite detention violates the Due Process Clause of the Fifth Amendment;
- j. Declare that Mr. Ramos Bastidas' punitive detention violates the Sixth Amendment's prohibition on punishment without trial;
- k. Declare that Mr. Ramos Bastidas' indefinite detention extraterritorially and incommunicado violates the right to habeas corpus, U.S. Const. art. I, § 9, cl. 2; 28 U.S.C. § 2241;
- l. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- m. Grant such further relief as this Court deems just and proper.

Dated: June 20, 2025

Respectfully submitted,

/s/ Stephanie M. Alvarez-Jones

Stephanie M. Alvarez-Jones

GA Bar No. 237979

Yulie Landan*

Matthew Vogel†+

National Immigration Project of the
National Lawyers Guild (National
Immigration Project)

1763 Columbia Road NW

Ste 175 #896645

Washington, DC 20009

T: (202) 470-2082

stephanie@nipnlg.org

yulie@nipnlg.org

matt@nipnlg.org

Counsel for Petitioner

**admitted pro hac vice*

+ pro hac vice pending

*† Not admitted in DC; working remotely
from and admitted in Louisiana only*

Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Stephanie M. Alvarez-Jones

Date: June 20, 2025