

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

Edicson David QUINTERO CHACÓN,

Petitioner,

v.

Terrence DICKERSON, Warden, Stewart Detention Center; Kenneth GENALO, Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration & Customs Enforcement; Todd LYONS, Acting Director, U.S. Immigration & Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, Attorney General; Marco RUBIO, Secretary of State; and Donald J. TRUMP, President of the United States of America, *in their official capacities,*

Respondents.

Civil Action No. 4:25-cv-50-CDL-AGH

HEARING REQUESTED

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

1. Petitioner Edicson David Quintero Chacón (“Petitioner” or “Mr. Quintero”) is a 28-year-old Venezuelan man who is currently confined at Centro de Confinamiento del Terrorismo, the Terrorism Confinement Center (“CECOT”), in Tecoluca, El Salvador at the request and expense of Respondents. He is confined incommunicado in a prison widely regarded to be a site of inhumane conditions and torture. Mr. Quintero was ordered removed to Venezuela by an immigration judge, and he stated a willingness to submit to deportation to Venezuela. Instead of effectuating his deportation to Venezuela, Respondents are paying for Mr. Quintero’s torture in El Salvador with U.S. taxpayer dollars in flagrant violation of the United States Constitution.

2. On February 10, 2025, after eight months in federal immigration custody, Mr. Quintero filed a habeas petition challenging his continued detention under 8 U.S.C. § 1231(a)(6). ECF No. 1. At the time, he was detained at Stewart Detention Center (“SDC”) in Lumpkin, Georgia. In that *pro se* petition, Mr. Quintero stated he “was not fighting [his] case anymore,” and that he “just wanted to go home.” *Id.* at 3.
3. As Mr. Quintero’s petition made clear, he had been detained beyond the 90-day removal period, and he anticipated his detention would continue absent judicial review, because, as the parties agreed, his home country of Venezuela was “not taking deportations.” *Id.* at 6; *see* ECF No. 10-1 ¶ 7.
4. Although uncounseled, the petition was an obvious assertion of the well-established statutory and constitutional claims articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001), that after six months of post-removal order detention, release is required if there is not a “significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. Without such recourse, the Supreme Court reasoned, the statute would permit “indefinite detention” of noncitizens, which “would raise a serious constitutional problem.” *Id.* at 690.
5. On March 10, 2025, a month after filing his habeas petition, Mr. Quintero surpassed six months in post-final order detention under § 1231(a)(6).
6. Days later, on March 15, 2025, rather than releasing Mr. Quintero or at least responding to the petition on its merits, the government took the extraordinary step of transferring Mr. Quintero to CECOT.
7. Upon information and belief, after landing in El Salvador, Mr. Quintero was “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).¹ 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. Quintero.

8. According to the Salvadoran government, people held at CECOT “will never leave.” Human Rights Watch, which investigates human rights abuses globally, “is not aware of any detainees who have been released from that prison.” *See* Ex. 1, Declaration of Juanita Goebertus (“Goebertus Decl.”) ¶ 7.
9. Mr. Quintero was one of approximately 260 individuals—including 238 from Venezuela—whom Respondents disappeared into CECOT on the evening of March 15, 2025.² Respondents are paying the Salvadoran government \$6 million to hold people for a renewable one-year term, “pending the United States’ decision on their long-term disposition.”³ 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.”⁴
10. The government avers that Mr. Quintero’s 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.”

¹ *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>.

² Nayib Bukele (@nayibbukele), X (Mar. 16, 2025, 7:13 AM), <https://x.com/nayibbukele/status/1901245427216978290>.

³ Matthew Lee & Regina Garcia Cano, *US prepares to deport about 300 alleged gang members to El Salvador*, Associated Press (Mar. 16, 2025), <https://apnews.com/article/trump-deportations-salvador-tren-aragua-64e72142a171ea57c869c3b35eeecce7>; *see also* *What to know about the El Salvador mega-prison where Trump sent deported Venezuelans*, The Guardian (Mar. 19, 2025), <https://www.theguardian.com/world/2025/mar/20/cecot-el-salvador-venezuela-prison-trump-deportations>.

⁴ 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>.

ECF No. 10-1 ¶ 8.

11. But this is no ordinary removal. Mr. Quintero has been held at CECOT at Respondents' behest, incommunicado, since they flew him to El Salvador on March 15. If Mr. Quintero continues to be treated like others imprisoned at CECOT, Respondents' decision to transfer him there will amount to an effective life sentence—and possibly a death sentence.
12. Moreover, Mr. Quintero was ordered removed to Venezuela, not El Salvador. He was denied notice and the opportunity to challenge his removal to a third country, including the opportunity to raise Convention Against Torture claims.
13. The government now contends that although it is orchestrating and paying for his custody, it has moved Mr. Quintero off U.S. soil and thus it no longer must answer for his detention.
14. Mr. Quintero's continuing detention—now approaching a year—is lawless. 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.
15. Respondents' detention of Mr. Quintero at CECOT also runs afoul of the bedrock due process prohibitions on arbitrary, punitive, and indefinite civil detention.
16. Mr. Quintero 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 return and release to the United States or his prompt removal to Venezuela.

JURISDICTION AND VENUE

17. 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. Quintero 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.

18. The 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.
19. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Mr. Quintero was detained at 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 (2006)) (same).

PARTIES

20. Petitioner Edicson David Quintero Chacón is a Venezuelan citizen currently detained by Respondents at CECOT. An immigration judge (“IJ”) ordered him removed to Venezuela on September 11, 2024. Mr. Quintero has now been continuously detained by Respondents since approximately June 13, 2024, over ten months.
21. Respondent Terrence Dickerson is the Warden of SDC. Pursuant to a contract with U.S.

Immigration and Customs Enforcement (“ICE”), Respondent Dickerson is responsible for the operation of the SDC. At the time this habeas action was initiated, Respondent Dickerson had control over Mr. Quintero as his immediate custodian.

22. Kenneth Genalo 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 Genalo is a legal custodian of Mr. Quintero.

23. 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. Quintero.

24. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”), which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of immigration laws. Respondent Noem is a legal custodian of Mr. Quintero.

25. 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. Quintero.

26. 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 of America. 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. Quintero. Respondent Rubio negotiated the agreement with El Salvador by which the United States pays El Salvador to detain non-U.S. citizens, including Mr. Quintero, 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. Quintero.

27. 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. Quintero. Respondent Trump negotiated the agreement with El Salvador by which the United States pays El Salvador to detain non-U.S. citizens, including Mr. Quintero, 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. Quintero.

28. All Respondents are sued in their official capacities.

STATEMENT OF FACTS

I. Mr. Quintero's Detention, Removal Proceedings, Habeas Proceedings, and Transport to CECOT

29. Mr. Quintero is a citizen of Venezuela. He is from the city of San Cristóbal in the state of Táchira. He is 28 years old. He is a loving husband,⁵ father of two small children, brother, and son, and a skilled carpenter and fisherman. He is the eldest of eight children from a family of modest means. He has been working since he was 12 years old to support his

⁵ Mr. Quintero is in a common law, rather than legal, marriage.

family.

30. On information and belief, Mr. Quintero has never been charged with or convicted of a crime in any country.

31. Mr. Quintero arrived in the United States in April 2024. He turned himself in to immigration officers at the border, who released him on his own recognizance on a finding that he was not a flight risk or a danger to the community. *See* Ex. 2, Release Paperwork for Mr. Quintero. They gave him paperwork with instructions for scheduling an ICE check-in at his destination. *See id.* On information and belief, at the border, immigration officials placed an ankle monitor on him.

32. Shortly thereafter, Mr. Quintero traveled to North Carolina. On information and belief, he followed the instructions of immigration officials and scheduled his own ICE check-in. *See* Ex. 2 at 5 (instructions for scheduling check-in). On information and belief, he attended that check-in.

33. On information and belief, Mr. Quintero attended a second ICE check-in, at which he signed paperwork and was allowed to leave.

34. On information and belief, at either his first or second ICE check-in, ICE removed his ankle monitor.

35. On information and belief, Mr. Quintero attended a third ICE check-in on or around June 13, 2024. At that check-in, ICE took him into custody. Shortly thereafter, he was transferred to SDC.

36. At the time, Mr. Quintero was detained pursuant to 8 U.S.C. § 1226(a). On July 12, 2024, an IJ held a bond hearing. At the bond hearing, Mr. Quintero bore the burden of disproving that he presented a danger to the community or a flight risk. *Cf. J.G. v.*

Warden, 501 F. Supp. 3d 1331, 1334 (M.D. Ga. 2020). On information and belief, at the bond hearing, the government alleged, but did not prove, that Mr. Quintero was a member of the Venezuelan gang Tren de Aragua and therefore posed a danger. The IJ denied Mr. Quintero release on bond, citing only flight risk, and not danger, as the basis for the decision. *See* Ex. 3, IJ Bond Decision.

37. An IJ ordered Mr. Quintero removed on September 11, 2024, designating Venezuela as the country of removal.⁶ ECF No. 10-2. He was ordered removed for the most commonplace of civil immigration violations—presence without admission or parole under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* at 1. Mr. Quintero waived appeal, *id.* at 2, and his removal order became final that same day by operation of 8 C.F.R. § 1241.1(b).
38. During his detention at SDC, Mr. Quintero sometimes called his family multiple times per day so that he would not feel alone. Mr. Quintero is a practicing Christian. On information and belief, he regularly attended church services while detained at SDC.
39. On February 10, 2025, this Court docketed Mr. Quintero’s *pro se* habeas petition, in which he sought release because Venezuela was not accepting removals from the United States at the time. ECF No. 1. That same day, the Court ordered a comprehensive response from the government within 21 days. ECF No. 3.
40. On February 12, 2025, Mr. Quintero was transferred to El Paso Service Processing Center in El Paso, Texas. ECF No. 10-1 ¶ 6.
41. On March 3, 2025, Respondents sought and received a 14-day extension of the deadline to respond to the petition. ECF Nos. 5, 6.

⁶ Mr. Quintero’s removal order states: “Respondent shall be removed to Venezuela. or in the alternative to on the charge(s) contained in the Notice to Appear.” [sic]. ECF No. 10-2 at 1. In turn, the only country listed on the Notice to Appear is Venezuela. Ex. 4, Notice to Appear.

42. On March 9, 2025, Mr. Quintero was transferred to El Valle Detention Facility in Raymondville, Texas. ECF No. 10-1 ¶ 6.
43. On information and belief, on the evening of March 14, 2025, Mr. Quintero believed he was finally going to be free from detention because he was being staged for removal. On information and belief, he believed he would be sent either to Venezuela—his home country, and the country to which the IJ ordered removal—or alternatively, to Mexico.
44. On March 15, 2025, Respondents transported Mr. Quintero, along with approximately 260 other people, mostly from Venezuela, on three separate flights to CECOT in El Salvador.⁷ ECF No. 10-1 ¶ 8.
45. The U.S. government has stated that some of the people in that group were sent there 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.
46. Others, like Mr. Quintero, had final removal orders to countries other than El Salvador. Respondents maintain that Mr. Quintero was removed under 8 U.S.C. § 1231(b)(2) and have not invoked the Alien Enemies Act in his case. ECF No. 10-1 ¶¶ 7–8. On information and belief, Mr. Quintero has no connection whatsoever with Tren de Aragua.⁸

⁷ 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 “Quintero Chacon, Edicson” as one of the individuals sent by the United States government to CECOT).

⁸ 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 *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682, at *5–10 (D.C. Cir. Mar. 26, 2025) (Henderson, J., concurring) (AEA predicates of “invasion” or “predatory incursion” not met); *id.* at *13 (Millett, J., concurring) (“The Constitution’s demand of due process cannot be so easily thrown aside.”); *J.G.G. v. Trump*, No. CV 25-766 (JEB), 2025 WL 890401, at *9–15 (D.D.C. Mar. 24, 2025). The validity of the invocation and the process due to individuals alleged to be “alien enemies” is being litigated in other suits. Because Respondents have not relied on the Alien Enemies Act as authority for their treatment of Mr. Quintero, those issues are irrelevant to this case. Mr. Quintero retains and does not waive the right to defend against any future invocation of the AEA that the government may make. See *Trump v. J.G.G.*, 604 U.S. ---, 2025 WL 1024097, at *2 (Apr. 7, 2025).

47. On information and belief, Mr. Quintero did not receive advance notice that he was being sent to El Salvador or to CECOT, nor did he have an opportunity to raise claims of fear of persecution or torture in El Salvador.⁹
48. Mr. Quintero is not a citizen, national, subject, or native of El Salvador. On information and belief, Mr. Quintero had never been to El Salvador before Respondents transferred him to CECOT on March 15. On information and belief, El Salvador has no independent basis under its domestic law for detaining Mr. Quintero.
49. On March 17, 2025, Respondents sought and received a three-day extension of the previously extended time to respond to the petition. ECF Nos. 7, 8.
50. On March 20, 2025, Respondents moved to dismiss Mr. Quintero's habeas petition, asserting that he is "no longer in [Respondent Dickerson]'s or ICE/ERO custody," and therefore, in Respondents' view, the case is moot. ECF No. 10 at 3–4.
51. Respondents have negotiated with and are paying the Government of El Salvador for Mr. Quintero's detention at CECOT, and they are therefore responsible for the ongoing significant restraints on Mr. Quintero's liberty.
52. On information and belief, Mr. Quintero has in no way tried to impede his removal to Venezuela. On the contrary, Mr. Quintero's *pro se* habeas petition indicates his desire to "go home" to Venezuela rather than continue languishing in indefinite ICE detention. ECF No. 1 at 2. If physically returned to the United States and released from detention, Mr. Quintero would live with a family member in North Carolina. Mr. Quintero would comply with any conditions of release. Mr. Quintero's family member would also ensure that Mr. Quintero attends any future check-ins or hearings.

⁹ *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.").

53. Consistent with the statements in his original *pro se* habeas petition, Mr. Quintero 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 Migrants in CECOT and March 15, 2025, Transfer of Noncitizens to CECOT

54. 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,” including by offering “his jails” to house people sent from the United States.¹⁰

55. 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.”¹¹

56. The United States government paid or is continuing to pay the Salvadoran government \$6 million dollars to detain individuals, including Mr. Quintero, at CECOT for one year.¹²

57. The United States retains the authority to determine the “long term disposition” of Mr. Quintero and the other individuals sent from the United States to CECOT.¹³

58. On March 15, 2025, Respondents sent three planes of people, including Mr. Quintero, to

¹⁰Nayib Bukele (@nayibbukele), X (Feb. 3, 2025, 9:44 PM), <https://x.com/nayibbukele/status/1886606794614587573> (“We are willing to take in only convicted criminals (including convicted U.S. citizens) into our mega-prison (CECOT) in exchange for a fee.”); 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>.

¹¹Marco Rubio (@SecRubio), X (Mar. 16, 2025, 7:59 AM), <https://x.com/SecRubio/status/1901241933302825470>; *see also* Nayib Bukele (@nayibbukele), X (Mar. 16, 2025, 8:13 AM), <https://x.com/nayibbukele/status/1901245427216978290>.

¹²Lee & Garcia Cano, *supra* note 3.

¹³*Id.* (noting 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 similar facts).

El Salvador to be detained at CECOT at the behest of the U.S. government.¹⁴ The majority of those individuals were Venezuelans who, like Mr. Quintero, had been detained in the United States. While two planes carried individuals who were being sent to CECOT 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.”¹⁵ *See also* ECF No. 10-1 ¶ 8 (explaining that Mr. Quintero was sent to El Salvador on a charter flight and “all” of the people on the flight “had final orders of removal”).

59. Despite a court order directing the U.S. government to return any planes currently in the air to the United States, everyone sent to El Salvador that day landed in El Salvador and was taken to CECOT.¹⁶

60. The United States government attempted to send several Venezuelan women to El Salvador, but upon landing in El Salvador, U.S. officials were told that the President of El Salvador would not receive women. The United States government returned the

¹⁴ 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>; Louis Casiano, *U.S. paid El Salvador to take Venezuelan Tren de Aragua members for “pennies on the dollar,” White House says*, FOX NEWS (Mar. 17, 2025), <https://www.foxnews.com/politics/us-paid-el-salvador-take-venezuelan-tren-de-aragua-members-pennies-dollar-white-house-says>; *see also* Lee & Garcia Cano, *supra* note 312 (describing agreement between the U.S. and El Salvador).

¹⁵ Declaration of Acting ERO 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.

¹⁶ *See* Marco Rubio (@SecRubio), X (Mar. 16, 2025, 8:39 AM), <https://x.com/SecRubio/status/1901252043517432213> (sharing video of men being taken off planes and to CECOT). The evening of March 15, 2025, around the same time as the flights were leaving the United States for El Salvador, Judge Boasberg of the U.S. District Court for the District of Columbia issued a temporary restraining order, enjoining the U.S. government from removing individuals subject to the March 15, 2025 Presidential Proclamation invoking the Alien Enemies Act. *J.G.G. v. Trump*, No. 1:25-cv-00766-JEB (D.D.C. Mar. 15, 2025 Minute Order); *see* Nathan Layne et al., *Trump administration deports Venezuelans despite court order, says judge has no authority*, Reuters (Mar. 17, 2025), <https://www.reuters.com/world/us/us-removes-hundreds-alleged-venezuelan-gang-members-under-now-blocked-authority-2025-03-16>. On April 16, 2025, Judge Boasberg found probable cause for contempt by Respondents Trump, Bondi, Rubio, and Noem, as well as ICE, DHS, and the State Department. *J.G.G.*, No. 1:25-cv-00766-JEB (D.D.C. Apr. 16, 2025), ECF No. 81; *see id.* at 41 (“From the opening hours of Saturday [March 15], the Government’s conduct betrayed a desire to outrun the equitable reach of the Judiciary.”).

women to U.S. territory.¹⁷

61. In response to the court order requiring the return of the planes en route to El Salvador, President Bukele posted on social media, “Oopsie... Too late 😂,” and shared media footage of men being taken off a plane at night.¹⁸ Respondent Rubio reposted President Bukele’s “Oopsie... Too late 😂” post.¹⁹
62. On March 16, 2025, President Bukele again referenced the United States’ payment in exchange for the detention of 238 Venezuelan individuals, including Mr. Quintero, at CECOT, stating that “[t]he United States will pay a very low fee for them, but a high one for us.”²⁰
63. 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.²¹

¹⁷ Declaration of S.Z.F.R., at ¶¶ 20–21, *J.G.G. v. Trump*, No. 1:25-cv-00766-JEB (D.D.C. Mar. 24, 2025), ECF No. 55-1 (“All the men got off the plane. The remaining women asked what happens to us? I was told that the President of El Salvador would not accept women. I was also told that we were going back to detention in the U.S. . . . The 8 women who were on the plane were all returned back to the U.S.”); Declaration of E.E.P.B., at ¶ 8, *J.G.G.* (D.D.C. Mar. 24, 2025), ECF No. 55-2 (describing conversation between a Salvadoran official and ICE officer where the Salvadoran official said “that they would not receive the females because the prison was not for females and females were not mentioned in the agreement”).

¹⁸ Nayib Bukele (@NayibBukele), X (Mar. 16, 2025, 7:46 AM), <https://x.com/nayibbukele/status/1901238762614517965>; Layne et al., *supra* note 1616.

¹⁹ Syra Ortiz Blanes et al., *Trump deports hundreds of alleged Venezuelan gang members. Did he defy a court order?*, Miami Herald (Mar. 17, 2025), <https://www.miamiherald.com/news/local/immigration/article302170974.html>.

²⁰ Nayib Bukele (@NayibBukele), X (Mar. 16, 2025, 8:13 AM), <https://x.com/nayibbukele/status/1901245427216978290>.

²¹ See *Abrego Garcia*, PX, 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”), *affirmed*, *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”); *Abrego Garcia v. Noem*, No. 25-1345, 2025 WL 1021113, at *4 (4th Cir. Apr. 7, 2025) (Thacker, C.J., concurring) (discussing favorably the district court’s finding that “the Government has not provided any evidence to support its

64. On or around March 26, 2025, Respondent Kristi Noem toured CECOT.²² 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 prison." 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.²³

65. On April 14, 2025, President Bukele visited the White House and met with Respondent Trump.²⁴ At this meeting, Respondent Trump told President Bukele, "[y]ou are helping us out. We appreciate it."²⁵

66. At the April 14 White House meeting, Respondent Trump discussed sending U.S. citizens to be imprisoned in El Salvador and asked President Bukele to build more prisons, telling President Bukele that "homegrowns are next You gotta build about five more

claim that it lacks the authority to return Abrego Garcia to the United States" and therefore, "just as in any other contract facility, Defendants can and do maintain the power to secure and transport their detainees, Abrego Garcia included" (quoting *Abrego Garcia*, 2025 WL 1014261, at *6).

²² 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 Apr. 16, 2025).

²³ Secretary Kristi Noem (@Sec_Noem), X (Mar. 26, 2025, 7:08 PM), https://x.com/Sec_Noem/status/1905034256826408982?ref_src=twsrc%5Etfw%7Ctwcamp%5Eet).

²⁴ 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>.

²⁵ Gram Slattery & Jeff Mason, *El Salvador's Bukele says he will not return man the US mistakenly deported*, MSN (Apr. 15, 2025), <https://www.msn.com/en-gb/news/world/el-salvadors-bukele-says-he-will-not-return-man-the-us-mistakenly-deported/ar-AA1CUjYT>.

places.”²⁶

67. On April 16, 2025, U.S. Senator Chris Van Hollen traveled to El Salvador to inquire about the status of Kilmar Abrego Garcia, one of his constituents 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.”²⁷

III. Conditions in CECOT

68. CECOT opened in January 2023. Goebertus Decl. ¶ 4. The Salvadoran government first announced its capacity as 20,000, but later doubled its reported capacity to 40,000. *Id.*

69. The Salvadoran government has described people held in CECOT as “terrorists,” and has said that they “will never leave.” *Id.* ¶ 7. El Salvador’s justice minister has said the only way out of CECOT is a coffin.²⁸ Human Rights Watch, an organization that investigates human rights abuses globally, is unaware of any detainees who have been released from CECOT. Goebertus Decl. ¶ 7. People held in CECOT are denied communication with their lawyers and family members, and only appear before courts in online hearings, often in groups of several hundred detained persons at a time. *Id.* ¶ 5.

70. The Salvadoran government denies human rights groups access to CECOT and has generally only allowed journalists and social media influencers to visit under highly

²⁶ 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>.

²⁷ 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).

²⁸ 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/>.

controlled circumstances. *Id.* ¶ 7.

71. 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.

72. Prison conditions in CECOT are understood to be consistent with what Human Rights Watch has documented in other Salvadoran prisons. *Id.* ¶ 8. Such conditions 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.* At CECOT, detained individuals share communal cells that can hold up to 100 people and contain no furniture other than rows of stacked metal bunks without mattresses or pillows, and the lights are always on.²⁹

73. 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

74. 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.

75. The United States and Venezuela have had no official diplomatic relations since President

²⁹ 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-prisonwhere-deported-migrants-are-held>.

Nicolás Maduro severed ties with the United States in 2019 after the United States recognized his opponent as the country's leader.

76. 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.³⁰

77. 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 economic sanctions reimposed on Venezuela by the United States after they were lifted in 2023.³¹

78. 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.

79. In February 2025, Venezuela agreed to accept the first repatriation flights from the United States in over a year.³² 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 178 people in the first cohort sent to Guantánamo in early February were Venezuelan.³³

80. In early March 2025, Venezuela yet again began refusing repatriation flights after the

³⁰ Annie Correa 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>.

³¹ 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>.

³² 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>.

³³ *Id.*

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.³⁴

81. To date, during 2025, the United States has deported approximately 1,300 Venezuelan nationals to Venezuela, including those who were first sent to Guantánamo.³⁵ This figure is similar to the number of deportations during the brief resumption of repatriation flights in late 2023, which represented “only a tiny fraction of the more than half a million Venezuelans who have arrived in the United States in recent years.”³⁶

82. As recently as April 4, 2025, the United States was able to deport Venezuelans to Venezuela.³⁷

LEGAL FRAMEWORK

I. Section 240 Removal Proceedings

83. Under Title 8 of the U.S. Code, which governs immigration, removal proceedings for noncitizens such as Mr. Quintero generally include full immigration court hearings, the opportunity for appellate review before the Board of Immigration Appeals, and federal court review. *See* 8 U.S.C. § 1229a; *id.* § 1252(a). Such removal proceedings are known as “Section 240 proceedings.”

84. Congress established the statutory process for determining countries to which noncitizens

³⁴ *Venezuela reaches deal to accept deportation flights from U.S.*, CBS NEWS (Mar. 25, 2025), <https://www.cbsnews.com/news/venezuela-reaches-deal-to-accept-deportation-flights-from-u-s>.

³⁵ Thomas H. Cartwright, *ICE Air Flights March 2025 and Last 12 Months* at 7, Witness at the Border (Apr. 7, 2025), <http://bit.ly/3Y3Flip>.

³⁶ Correa et al., *supra* note 30.

³⁷ Cartwright, *supra* note 35.

may be removed, *id.* § 1231(b)(1)-(3).³⁸

85. For individuals placed in Section 240 proceedings “at the time of [their] arrival” to the United States, the statute provides designation to the country from which the individual boarded a vessel or aircraft and then can consider alternative countries. *See id.* § 1231(b)(1); *see also* 8 C.F.R. § 1240.10(f). Section 1231(b)(1) applies to noncitizens “[a]rriving at the United States,” including from a contiguous territory, but expressly contemplates arrival via a “vessel or aircraft.” By its terms, subsection (b)(1) only applies to noncitizens who arrive at ports of entry. 8 C.F.R. § 1.2 (defining “arriving [noncitizen],” in relevant part, as “an applicant for admission coming or attempting to come into the United States at a port-of-entry . . .”).

86. Subsection 1231(b)(2) applies to all other noncitizens, including Mr. Quintero. 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) (“[T]he immigration judge shall notify the respondent that if he or she is finally ordered removed, the country of removal will in the first instance be the country designated by the respondent . . .”). The IJ will designate the country where the person “is a subject, national, or citizen,” if either the noncitizen does not select a country or as an alternative in the event the noncitizen’s designated country does not accept the individual. 8 U.S.C. § 1231(b)(2)(D). The IJ also may designate alternative countries, as specifically set out by 8 U.S.C. § 1231(b)(2)(E), which states:

If a [noncitizen] is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the

³⁸ 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).

[noncitizen] to any of the following countries:

- (i) The country from which the [noncitizen] was admitted to the United States.
- (ii) The 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.
- (iii) A country in which the [noncitizen] resided before the [noncitizen] entered the country from which the [noncitizen] entered the United States.
- (iv) The country in which the [noncitizen] was born.
- (v) The country that had sovereignty over the [noncitizen]'s birthplace when the [noncitizen] was born.
- (vi) The country in which the [noncitizen]'s birthplace is located when the [noncitizen] is ordered removed.
- (vii) **If impracticable, inadvisable, or impossible to remove the [noncitizen] to each country described in a previous clause of this subparagraph,** another country whose government will accept the [noncitizen] into that country.

8 U.S.C. § 1231(b)(2)(E) (emphasis added).

87. Both subsections (b)(1) and (b)(2) have a specific provision prohibiting removal of persons to countries where they face persecution or torture. Specifically, § 1231(b)(3)(A), entitled “Restriction on removal to a country where [noncitizen’s] life or freedom would be threatened,” 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.

8 U.S.C. § 1231(b)(3)(A) (emphasis added).

88. 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).

89. Courts repeatedly have held that individuals cannot be removed to a third country without notice of such so that they can have the opportunity to raise torture-based claims with

regard to the third country. *See, e.g., El Himri v. Ashcroft*, 378 F.3d 932, 938-39 (9th Cir. 2004); *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”).

90. After a removal order is issued and becomes legally final and executable, *see* 8 U.S.C. § 1231(a)(1)(B), a noncitizen ordered removed may be removed from the United States.

91. Although Mr. Quintero’s third-country removal to El Salvador did not comply with applicable law, Respondents’ position is that he was “removed.” *See* ECF No. 10. Even if that is the case, it is not the end of the statutory or constitutional inquiry.

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

92. 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), ECF No. 59 (quoting *Zadvydas*, 533 U.S. at 699), *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

93. 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).

94. 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)). Even if a person is not in “actual, physical custody,” they are in “custody” when there is a “significant restraint on their liberty that is not shared by the general public.” *Id.* at 775 (citing *Jones v. Cunningham*, 371 U.S. 236, 240–43 (1963)). This concept is often referred to as “constructive custody.” *See, e.g., United States v. Presley*, 487 F.3d 1346, 1349 (11th Cir. 2007). 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)).

95. The language “in custody under or by color of the authority of the United States” 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).
96. Thus, a person may be in United States “custody” for purposes of § 2241 even when held outside United States territory, *see id.*, 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”).
97. Even noncitizens who have been designated “enemy combatants,” captured abroad, and

are held at Guantánamo Bay Naval Base (in Cuba) without having stepped foot on U.S. soil have access to the Great Writ. *Rasul v. Bush*, 542 U.S. 466, 481 (2004) (“Considering that [§ 2241] draws no distinction between Americans and [noncitizens] held in federal custody, there is little reason to think that Congress intended the geographical coverage of the statute to vary depending on the detainee’s citizenship.”); *Boumediene*, 553 U.S. at 771 (holding that the Suspension Clause “has full effect at Guantanamo Bay”).

98. 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, ECF No. 59 at *4 (holding that the warden of Irwin County Detention Center, a contracted detention center, would be “would be unable to carry out the Court’s instructions without more senior [U.S. government] officials taking certain actions,” and granting habeas relief); ECF No. 10 at 1 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 habeas”).

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

99. “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.

100. Arbitrary civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Mr. Quintero’s 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”).
101. 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. Thus, after removal has been effectuated, further immigration detention serves no legitimate purpose.
102. 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.*, 501 F. Supp. 3d at 1337 (“[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 also separately “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. *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).

103. 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 after Entry of a Final Removal Order

104. 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).

105. That section contemplates that the United States government will own, rent, lease, acquire, build, remodel, repair, and/or operate such facilities. *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.

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

107. 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, during which ICE is supposed to effectuate removal. This 90-day period is known as the “removal period” and generally starts once a final order of removal has been entered. *See id.* § 1231(a)(1)(B).

108. Those who are not removed within the 90-day removal period should be released under conditions of supervision, such as periodic reporting and other reasonable restrictions. *See id.* § 1231(a)(3). The government may continue to detain certain noncitizens beyond the 90-day removal period if they have been ordered removed on inadmissibility grounds after violating nonimmigrant status or conditions of entry, or on grounds stemming from criminal convictions, or security concerns, or if they have been determined to be a danger or flight risk. *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.*

109. The Supreme Court held in *Zadvydas* that the authority to detain under § 1231(a)(6) is not limitless. The Court explained that § 1231(a)(6), when “read in light of the Constitution’s demands, limits [a noncitizen]’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” 533 U.S. at 689. A “habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal.” *Id.* at 699. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized.” *Id.* At that point, the individual must be released because his continued detention would violate both the statute and the Due Process Clause of the Constitution. *Id.*

110. In determining a period reasonably necessary to effectuate removal, the *Zadvydas* Court adopted a “presumptively reasonable period of detention” of six months, inclusive

of the 90-day removal period. *Id.* at 701. “After this 6-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* Thus, after six months, the government bears the burden of disproving a detained person’s “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Clark v. Martinez*, 543 U.S. 371, 386 (2005).

111. Supervised release is the appropriate relief when “the detention in question exceeds a period reasonably necessary to secure removal” because at that point, detention is “no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699–700; *see also Clark*, 543 U.S. at 386; *Adu*, 2018 WL 6495068.

112. Neither § 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

113. Mr. Quintero re-alleges and incorporates by reference each and every allegation contained above.
114. Mr. Quintero 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 basis for his continuing custody.
115. Respondents lack any statutory or constitutional authority to detain Mr. Quintero at CECOT.
116. Mr. Quintero’s 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

117. Mr. Quintero re-alleges and incorporates by reference each and every allegation contained above.
118. Mr. Quintero 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 basis for his continuing custody.

119. 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.

120. Civil immigration detention must be reasonably related to the statutory purpose of effectuating removal. When 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))).

121. 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).

122. Civil detention may not be punitive in nature or intent. *Bell*, 441 U.S. at 539; *Wong Wing*, 163 U.S. at 237.

123. Mr. Quintero’s continuing detention by Respondents amounts to a substantive due process violation because it is not tied to any legitimate governmental purpose, as he was already removed from the United States. Alternatively, if he is not considered “removed” from the United States, his continuing indefinite detention still serves no legitimate purpose because it is not in service of effectuating his removal or assuring his presence

for proceedings, and Mr. Quintero presents no danger to the community.

124. Mr. Quintero’s 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.

125. Mr. Quintero’s 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.

126. Mr. Quintero’s detention is therefore unlawful, and he is entitled to immediate release from custody.

THIRD CLAIM FOR RELIEF

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1231(a)(6)

127. Mr. Quintero re-alleges and incorporates by reference each and every allegation contained above.

128. At the time Mr. Quintero filed his original petition, he was detained pursuant to 8 U.S.C. § 1231(a)(6), because he had a final removal order.

129. Section 1231(a)(6) contains an implicit temporal limitation of six months, after which detention is no longer presumptively reasonable. *Zadvydas*, 533 U.S. at 701. After that point, if the habeas petitioner “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing,” and due process “requires ordering [the p]etitioner released.” *Adu*, 2018 WL 6495068, at *2–3 (quoting *Zadvydas*, 533 U.S. at 701).

130. Mr. Quintero remained detained in the United States pursuant to § 1231(a)(6)

beyond six months, at which point Respondents transferred him to CECOT to evade review of his claim under *Zadvydas*.

131. Mr. Quintero’s removal to Venezuela has never been significantly likely in the reasonably foreseeable future—not at the time he filed his petition, not at the time his detention under § 1231(a)(6) surpassed six months because of Venezuela’s unwillingness to accept removals from the United States, and not now because of Mr. Quintero’s indefinite confinement at CECOT.

132. Nor has there even been any “sufficiently strong special justification” for Mr. Quintero’s prolonged detention beyond the six-month limit. *See Zadvydas*, 533 U.S. at 690–91 (requiring a showing of dangerousness accompanied by some other “special circumstance” to justify continued detention when removal is not significantly likely in the reasonably foreseeable future).

133. Absent judicial intervention, Mr. Quintero will very likely remain imprisoned at CECOT indefinitely—well beyond the six months recognized as reasonably necessary to effectuate removal in *Zadvydas*.

134. If Respondents were to invoke § 1231(a)(6) to justify Mr. Quintero’s continued detention, that detention would violate § 1231(a)(6) for the reasons set out in *Zadvydas*, entitling him to immediate release from custody.

FOURTH CLAIM FOR RELIEF

VIOLATION OF HABEAS CORPUS

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

136. Respondents’ detention of Mr. Quintero 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 within the timeframe proposed following a conferral between the Parties, ECF No. 12 at 2;
- c. Order that as part of their filing showing cause why the Petition should not be granted, Respondents provide all documents relevant to efforts made to deport Mr. Quintero 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. Quintero, 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. Quintero from their custody and facilitate and effectuate his prompt return and release into the United States or facilitate and effectuate his prompt removal and release to Venezuela;
- g. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Mr. Quintero;
- h. Declare that Mr. Quintero's detention at CECOT is ultra vires;
- i. Declare that Mr. Quintero's indefinite detention violates the Immigration and Nationality Act;
- j. Declare that Mr. Quintero's indefinite detention violates the Due Process Clause of the Fifth Amendment;
- k. Declare that Mr. Quintero's 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: April 16, 2025

Respectfully submitted,

/s/ Rebecca M. Cassler

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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/ Rebecca M. Cassler

Date: April 16, 2025