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ZUHIR ZIN EDDIN

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 ZUHIR ZIN EDDIN,

11 Petitioner,

12 v.

13 KRISTI NOEM, Secretary of the U.S.  
Department of Homeland Security;  
14 PAM BONDI, Attorney General of  
the United States; THOMAS GILES  
15 Director of the Los Angeles Field  
Office of U.S. Immigration and  
16 Customs Enforcement; AND JAMES  
JANECKA, Warden Adelanto ICE  
17 Processing Center in their official  
capacities,

18 Respondents.  
19  
20  
21  
22

Case No. 2:25-cv-04817-JFW-DTB

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

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## INTRODUCTION

1. Petitioner Zuhir Zin Eddin has been detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Adelanto Detention Center (“Adelanto”) in Adelanto, CA for almost five months even though he is statutorily protected from removal under 8 U.S.C. § 1254a. He has not received an individualized bond hearing before an Immigration Judge (“IJ”) and has no criminal convictions.

2. Petitioner is presumably being detained under 8 U.S.C. § 1231(a) since he has a final withholding of removal (“withholding”) order. However, Petitioner’s continued detention violates § 1231(a)(6) because his removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). In fact, he is not removable at all due to his pending *prima facie* TPS application. See 8 U.S.C. § 1254a.

3. In the highly likely scenario that Petitioner’s TPS application is approved, he will not be removable for the foreseeable future. Even if his application were denied, he would still be protected from removal during an appeal to the Board of Immigration Appeals (“BIA”). Even if that appeal were denied as well, Petitioner could still not be removed to his home country of Syria because he has been granted withholding based on findings by an IJ that he would likely be persecuted or tortured there. Consequently, Petitioner’s removal depends on the occurrence of multiple hypothetical events, none of which are likely, let alone foreseeable.

4. Nonetheless, ICE has decided to ignore Petitioner’s removal protections and pursue his deportation regardless. ICE attempts to justify Petitioner’s continued detention by baselessly claiming that he is a flight risk even though he has no criminal history, has

1 complied with all ICE orders, and has a pending *prima facie* TPS application. ICE  
2 continues to unlawfully to detain Petitioner in violation of the Due Process Clause of the  
3 Fifth Amendment, as well as 8 U.S.C. §§ 1254a and 1231(a). To remedy these ongoing  
4 violations of the law, Petitioner brings this petition for the writ of habeas corpus and asks  
5 the Court to order his immediate release.

### 6 7 JURISDICTION AND VENUE

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

10 6. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of  
11 habeas authority to district courts); Art. I § 9, cl. 2 of the U.S. Constitution (“Suspension  
12 Clause”); 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. §§ 2201, 2202  
13 (Declaratory Judgment Act).

14 7. Federal district courts have jurisdiction to hear habeas claims by aliens  
15 challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. at 687.

16 8. Federal courts also have federal question jurisdiction, through the  
17 Administrative Procedure Act (“APA”), to “hold unlawful and set aside agency action”  
18 that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with  
19 law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703. The  
20 APA affords a right of review to a person who is “adversely affected or aggrieved by  
21 agency action.” 5 U.S.C. § 702. Respondents’ continued detention of Petitioner past the  
22 initial removal period has adversely and severely affected Petitioner’s liberty and freedom.



1           9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(c), because  
2           Petitioner is being detained at the Adelanto Detention Center in Adelanto, CA, which is  
3           within the jurisdiction of this district. Respondents are officers, employees, or agencies of  
4           the United States, a substantial part of the events or omissions giving rise to his claims  
5           occurred in this district, and no real property is involved in this action.

6  
7                                   **REQUIREMENTS OF 28 U.S.C. § 2243**

8           10. The Court must grant the petition for writ of habeas corpus or issue an order  
9           to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled  
10          to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require  
11          respondents to file a return “within three days unless for good cause additional time, not  
12          exceeding twenty days, is allowed.” *Id.*

13          11. Courts have long recognized the significance of the habeas statute in  
14          protecting individuals from unlawful detention. The Great Writ has been referred to as  
15          “perhaps the most important writ known to the constitutional law of England, affording  
16          as it does a swift and imperative remedy in all cases of illegal restraint or confinement.”  
17          *Fay v. Noia*, 372 U.S. 391, 400 (1963).

18  
19                                   **PARTIES**

20          12. Petitioner Zuhir Zin Eddin is a national of Syria who was granted INA §  
21          241(b)(3) withholding on June 14, 2024. *See* Exhibit (“Exh.”) E, Order Granting  
22          Withholding of Removal 06.14.24, page 40. He is currently detained by ICE at the

1 Adelanto Detention Center and under the direct control of Respondents and their agents.

2 13. Respondent Kristi Noem is sued in her official capacity as the Secretary of  
3 the U.S. Department of Homeland Security (“DHS”). DHS is the federal agency  
4 responsible for implementing and enforcing the INA. DHS oversees ICE and the  
5 detention of noncitizens. DHS is a legal custodian of Petitioner. In this capacity,  
6 Respondent Noem is responsible for the implementation and enforcement of the INA,  
7 and oversees ICE, the component agency responsible for Petitioner’s detention.  
8 Respondent Noem is empowered to carry out any administrative order against Petitioner  
9 and is a legal custodian of Petitioner.

10 14. Respondent Pam Bondi is sued in her official capacity as the Attorney  
11 General of the United States and the senior official of the U.S. Department of Justice  
12 (“DOJ”). In that capacity, she has the authority to adjudicate removal cases and oversees  
13 the Executive Office for Immigration Review (“EOIR”), which administers the  
14 immigration courts and the BIA.

15 15. Respondent Thomas Giles is sued in his official capacity as the Director of  
16 ICE’s Los Angeles Field Office. Respondent Giles is a legal custodian of Petitioner and  
17 has authority to release him.

18 16. Respondent James Janecka is the Warden of the Adelanto ICE Processing  
19 Center and has immediate physical custody of Petitioner pursuant to a contract with ICE  
20 to detain noncitizens; he is a legal custodian of Petitioner.



**STATEMENT OF FACTS**

17. Petitioner Zuhir Zin Eddin is a 51-year-old Syrian national of the Druze minority religion, a group with a documented history of persecution in Syria. *See* Exh. F, TPS Packet, p. 49. Petitioner entered the United States on December 21, 2023, and has been residing here ever since. *Id.*, p. 50. He has no criminal record. *See id.*, p. 54-57. He has consistently complied with all ICE reporting requirements and check-ins. *See* Exh. B, Decl. of Monia Ghacha, ¶ 5, p. 33. He has been employed for at least some of his time in the United States. *See* Exh. F, p. 65.

18. On June 14, 2024, the El Paso SPC Immigration Court granted Petitioner withholding of removal to Syria pursuant to INA § 241(b)(3). Exh. E, p. 40. The order specifically states: “Respondent was ordered removed to Any Country EXCEPT Syria. Removal to Syria is WITHHELD.” *Id.*

19. On December 9, 2024, Petitioner filed an application for Temporary Protected Status (“TPS”), which is still pending. Exh. D, TPS Receipt Notice, p. 38. Petitioner meets—*prima facie*—every requirement for TPS and does not fall into any of the categories precluding eligibility, such as having a criminal record. *See* Exh. F, p. 49-57.

20. On February 25, 2025, Petitioner appeared for a scheduled ICE check-in appointment at the ICE office in Santa Maria, California. Exh. A, Decl. of Zuhir Zin Eddin at ¶ 1, p. 29. Petitioner provided ICE officers with his withholding order, his previous ICE release documents, and his TPS receipt notice. *Id.* at ¶ 2, p. 29. After waiting approximately 30 minutes, Petitioner was called into a room where three ICE officers in civilian clothing arrested him. *Id.* at ¶ 3, p. 29. Despite Petitioner asserting that

1 he has been granted withholding by an IJ, the ICE officers falsely told Petitioner that his  
2 withholding grant was “no longer valid” and that there was a “new order” for his removal  
3 to Syria. *Id.* The officers made threatening statements about taking Petitioner to  
4 “Guantanamo Bay” if they could not remove him to Syria. *Id.* at ¶ 4, p. 29.

5 21. Petitioner was subsequently transferred to the Adelanto Detention Center,  
6 where he has been detained since February 25, 2025. *Id.* at ¶ 5, p. 29. At no point was  
7 Petitioner informed of the specific country to which he was supposedly being removed.  
8 *Id.* at ¶ 9, p. 29. At Adelanto, Petitioner was asked if he wanted to contact the Syrian Arab  
9 Republic’s Embassy. *Id.* at ¶ 6, p. 29. Petitioner declined this offer pursuant to his grant of  
10 withholding from removal to Syria. *Id.*

11 22. On March 5, 2025, Petitioner was interviewed by ICE Officer J. Suarez. *Id.* at  
12 ¶ 7, p. 29. Officer Suarez presented Petitioner with English-language forms demanding  
13 his signature, including a Form I-299 Warning for Failure to Depart, despite Petitioner’s  
14 inability to comprehend their contents as he does not speak English. *Id.* Petitioner  
15 declined to sign any documents, asserting his right to have all paperwork reviewed by his  
16 attorney. *Id.* Officer Suarez informed Petitioner that ICE would attempt to contact Syrian  
17 authorities for travel documents and remove him to Syria. *Id.* at ¶ 8, p. 29. Petitioner  
18 objected, citing his withholding grant. *Id.* Officer Suarez admitted that he was unaware of  
19 the withholding grant and needed to check Petitioner’s file. *Id.*

20 23. During a March 17, 2025 call with Petitioner’s attorney, Officer Suarez  
21 admitted that Petitioner’s withholding grant prevents his removal to Syria. *See* Exh. B, at ¶  
22 9, p. 34. Officer Suarez stated that ICE was attempting to find a third country for

1 removal, such as Iraq or Mexico, with plans to contact an unnamed third country as well.

2 *Id.*

3 24. On March 30, 2025, DHS Secretary Kristi Noem issued a memorandum  
4 clarifying DHS policy on removing aliens to countries not designated for removal in their  
5 removal orders. *See* Exhibit C, ICE Policy Memo, p. 36. Prior to removal to a third  
6 country, DHS must determine whether that country has provided diplomatic assurances  
7 that aliens removed there will not be persecuted or tortured. *Id.* at p. 37. If no such  
8 assurances are forthcoming, or the Secretary does not find the assurances credible, DHS  
9 must follow standard procedures, including informing the alien of the intent of removal  
10 to a third country. *Id.* If the alien affirmatively expresses fear of removal to that country,  
11 U.S. Citizenship and Immigration Services (“USCIS”) must screen the alien for eligibility  
12 for protection under INA § 241(b)(3) and the Convention Against Torture (“CAT”). *Id.*

13 25. Petitioner entered Respondents’ custody in good health. *See* Exh. G, In-  
14 Processing Screening Form, p. 68. He first reported intermittent pain from his right  
15 shoulder the day after he arrived at Adelanto. *See* Exh. J, Intake Screening and Education  
16 Report 02.26.25, p. 82. Within less than a month, he reported consistent pain levels of 6  
17 out of 10 in his right shoulder, and his right arm’s range of motion had decreased. Exh.  
18 H, Musculoskeletal Pain or Trauma Assessment 03.22.25, p. 69-71. By May 28, the pain  
19 had reached a consistent level of 10 out of 10, spread to his right hand, which he can no  
20 longer fully use, and compromised his ability to sleep. *See* Exh. I, Musculoskeletal Pain or  
21 Trauma Assessment 05-28-25, p. 74-76; Exh. M, Supplemental Declaration of Monia  
22 Ghacha 07.14.25, at ¶ 3-5, p. 101. Petitioner’s most recent medical file notes that he

1 suffers from “[r]ight shoulder pain[,] [which has been present] for three months and [is]  
2 still persistent and getting worse[;] [he is] unable to abduct the right shoulder now.” Exh.  
3 K, Chronic Care Treatment Plan 06.04.25, p. 86.

4 26. Petitioner’s condition has only been treated with pain medication, including  
5 Voltaren gel and high doses of Ibuprofen, which can cause stomach bleeding. *See* Exh. L,  
6 Medical History and Physical Assessment 03.06.25, p. 99 (prescribing 600mg of  
7 Ibuprofen twice daily from 03/06-03/20); Exh. M, Musculoskeletal Pain or Trauma  
8 Assessment 03.22.25, p. 72 (prescribing two 200mg tabs of Ibuprofen three times daily).  
9 Petitioner reported severe side effects, including blood in his stool and urine. *See* Exh. M,  
10 ¶ 4-6, p. 101. This treatment has also been ineffective, and Petitioner’s condition has only  
11 worsened since. *See* Exh. K, p. 86. On or around July 4, 2025, Petitioner was rushed to the  
12 emergency room of the detention center for gastrointestinal bleeding where the  
13 Ibuprofen prescribed to him was determined to be the cause. Exh. M, ¶ 6, p. 101. The  
14 Ibuprofen treatment was discontinued and no further treatment for Petitioner’s internal  
15 bleeding and shoulder condition has been provided. *Id.*

16 27. Petitioner has been detained for almost five months without being informed  
17 of the specific legal basis for his detention. Exh. A, ¶ 8, p. 29. Since then, conditions at  
18 Adelanto have deteriorated precipitously due to a massive influx of detainees, and  
19 Petitioner has stated that he has been deprived of food and water for more than a day at a  
20 time and even when there is food, his daily nutrition only consists of two boiled  
21 vegetables, a (sometimes rotten) piece of meat, and occasionally a piece of bread. Exh. M  
22 ¶ 7, p. 101-102. Toilet paper is also no longer available to detainees. *Id.* Petitioner has not

1 received any notice of intended third-country removal or any indication that there is in  
2 fact a viable third country for his removal. Exh. B, ¶ 8, p. 34. Petitioner's attorney has  
3 made numerous attempts to contact ICE officials, including phone calls, emails, and  
4 hand-delivered letters, but has faced significant difficulties in obtaining information about  
5 the legal basis for Petitioner's detention and ICE's removal plans. *See* Exh. B, ¶ 9-12, p.  
6 34-35.

## 8 LEGAL FRAMEWORK

### 9 **I. HABEAS CORPUS PETITION UNDER 28 U.S.C. § 2241**

10 28. A detained noncitizen may bring a petition for the writ of habeas corpus  
11 pursuant to 28 U.S.C. § 2241 if he believes that his detention violates the Constitution or  
12 other federal law. 28 U.S.C. § 2241(c)(3). The Supreme Court has stated that “§ 2241  
13 habeas corpus proceedings remain available as a forum for statutory and constitutional  
14 challenges to post-removal-period detention.” *Zadvydas*, 533 U.S. at 688.

### 15 **II. ADMINISTRATIVE EXHAUSTION REQUIREMENTS**

16 29. “Administrative exhaustion is prudential rather than a jurisdictional  
17 requirement for habeas review under § 2241, which ‘does not specifically require  
18 petitioners to exhaust direct appeals before filing petitions for habeas corpus.’” *Acevedo-*  
19 *Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004) (quoting *Castro-Cortez v. INS*, 239  
20 F.3d 1037, 1047 (9th Cir. 2001)). When “exhaustion is a prudential requirement, a court  
21 has discretion to waive the requirement.” *Acevedo-Carranza*, 371 F.3d at 541 (citing  
22 *Stratman v. Watt*, 656 F.2d 1321, 1325–26 (9th Cir. 1981)).



30. The Ninth Circuit has developed a three-factor test for determining whether prudential exhaustion should be required: “Courts may require prudential exhaustion if ‘(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.’” *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (quoting *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003)). “Even if the three *Puga* factors weigh in favor of prudential exhaustion, a court may waive the prudential exhaustion requirement if ‘administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.’” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

### III. TEMPORARY PROTECTED STATUS

#### a. Eligibility

31. “The TPS program ... provides humanitarian relief to foreign nationals in the United States who come from specified countries.” *Sanchez v. Mayorkas*, 593 U.S. 409, 412 (2021). The Secretary of State decides whether to (re)designate countries for TPS. *Id.* Once granted TPS, an alien is protected from removal and authorized to work for as long as the TPS designation lasts. 8 U.S.C. § 1254a. A person's unlawful entry into the United States will usually not preclude granting him TPS. *See* 8 C.F.R. § 244.3 (2011).

32. To be eligible for TPS, an applicant must: (1) be a national of a country



1 designated for TPS; (2) file during the open initial registration or re-registration period; (3)  
2 have been continuously physically present in the United States since the most recent  
3 designation date; and (4) have been a United States resident since the date specified for  
4 his respective country. 8 U.S.C. § 1254a(c); 8 C.F.R. §§ 244.2 (1998), 244.3–4 (2011).  
5 Grounds for ineligibility include (1) having been convicted of any felony or two or more  
6 misdemeanors committed in the United States; (2) having been found inadmissible as an  
7 immigrant under applicable grounds in INA § 212(a); (3) being subject to any of the  
8 mandatory bars to asylum such as participating in the persecution of another individual or  
9 engaging in or inciting terrorist activity. *Id.*

10 **b. Statutory removal protection for *prima facie* applicants**

11 33. *Prima facie* TPS applicants are statutorily protected from removal: “In the case  
12 of an alien who establishes a *prima facie* case of eligibility for [TPS] benefits[,] ... until a  
13 final determination with respect to the alien's eligibility for such benefits ... has been  
14 made, the alien shall be provided such benefits.” 8 U.S.C. § 1254a(a)(4)(B). These benefits  
15 include that “the Attorney General ... shall not remove the alien from the United States  
16 during the period in which such status is in effect.” 8 U.S.C. § 1254a(a)(1); *see also Salad v.*  
17 *Dep't of Corr.*, 769 F. Supp. 3d 913, 922 (D. Alaska 2025) (“the INA prohibits removal of  
18 an individual who is *prima facie* eligible for TPS”). Thus, Petitioner cannot be removed  
19 from the United States until a decision on his application has been reached. *See San Juan*  
20 *Bonilla v. Ashcroft*, 115 F. App'x 364, 365 (9th Cir. 2004) (holding that a “stay of removal  
21 will remain in effect until [petitioner's] TPS appeal is adjudicated”).  
22

1 **IV. WITHHOLDING OF REMOVAL**

2 34. When an IJ grants withholding, the IJ simultaneously issues a removal order  
3 and withholds or defers that order with respect to the country for which the alien  
4 demonstrated a sufficient risk of persecution or torture. *See Johnson v. Guzman Chavez*, 594  
5 U.S. 523, 531 (2021). Once withholding is granted, either party has the right to appeal that  
6 decision to the BIA within 30 days. *See 8 C.F.R. § 1003.38(b)* (2022). If both parties waive  
7 appeal or neither party appeals within the 30-day period, the withholding grant and the  
8 accompanying removal order become administratively final. *See 8 C.F.R. § 1241.1* (2009).

9 35. When an alien has a final withholding order, he cannot be removed to the  
10 country for which he has demonstrated a sufficient likelihood of persecution or torture.  
11 *See 8 U.S.C. § 1231(b)(3)(A)*. While ICE is authorized to remove aliens who were granted  
12 withholding to alternative countries, *see 8 U.S.C. § 1231(b)*, the removal statute specifies  
13 restrictive criteria for identifying appropriate countries. 8 U.S.C. § 1231(b)(2)(D)-(E). If  
14 ICE identifies an appropriate alternative country for removal, the alien can challenge  
15 removal to that country by applying for withholding or CAT relief. *Jama v. ICE*, 543 U.S.  
16 335, 348 (2005).

17 **V. DETENTION OF ALIENS WITH FINAL REMOVAL ORDERS**

18 **a. Initial 90-day removal period**

19 36. The INA authorizes detention of aliens with final removal orders for 90 days  
20 during “the removal period” beginning on “the latest” of either “[t]he date the order of  
21 removal becomes administratively final”; “[i]f the removal order is judicially reviewed and  
22 if a court orders a stay of the removal of the alien, the date of the court’s final order”; or

1 “[i]f the alien is detained or confined (except under an immigration process), the date the  
2 alien is released from detention or confinement.” 8 U.S.C. § 1231(a)(1)-(2). Crucially, §  
3 1231, not § 1226, governs the detention of aliens with final removal orders. *Guzman*  
4 *Chavez*, 594 U.S. at 526.

5 **b. Prolonged detention under 8 U.S.C. § 1231(a)(6)**

6 37. Detention may continue beyond the initial removal period “if the noncitizen  
7 is: (1) ‘inadmissible’ under certain grounds, (2) ‘removable’ as a result of violations of  
8 status requirements or entry conditions, violations of criminal law, or reasons of security  
9 or foreign policy, (3) or has been ‘determined by the Attorney General to be a risk to the  
10 community or unlikely to comply with the order of removal.’” *Salad*, 769 F. Supp. 3d at  
11 920 (quoting 8 U.S.C. § 1231(a)(6)).

12 **c. Constitutional limits to detention under *Zadvydas***

13 38. Since “[a] statute permitting indefinite detention would raise serious  
14 constitutional questions,” *Zadvydas*, 533 U.S. at 679, the Supreme Court has held that §  
15 1231(a)(6) “implicitly limits an alien's detention to a period reasonably necessary to bring  
16 about that alien's removal.” *Id.* “[O]nce removal is no longer foreseeable, continued  
17 detention is no longer authorized by [§ 1231(a)(6)].” *Id.* at 699. The Court then established  
18 a “presumptively reasonable period of detention ... of six months.” *Id.* at 701. The Court  
19 rooted its ruling in the Fifth Amendment’s due process requirement that there must be  
20 “adequate procedural protections” to ensure that the government’s asserted justification  
21 for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally  
22 protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*,

1 521 U.S. 346, 356 (1997)).

2 39. “When that ‘presumptively reasonable’ six-month period ends, aliens seeking  
3 release from custody bear the initial burden of providing ‘good reason to believe that  
4 there is no significant likelihood of removal in the reasonably foreseeable future.’” *Trinh v.*  
5 *Homan*, 466 F. Supp. 3d 1077, 1082 (C.D. Cal. 2020) (quoting *Zadvydas*, 533 U.S. at 701).  
6 Then, the burden shifts to “the Government [which] must respond with evidence  
7 sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701. Crucially, “*Zadvydas*  
8 established a ‘guide’ for approaching detention challenges, not a categorical prohibition  
9 on claims challenging detention less than six months.” *Trinh*, 466 F. Supp. 3d at 1093.

## 10 VI. CONDITIONAL RELEASE

11 40. Bail pending a decision in a habeas case is available “for extraordinary cases  
12 involving special circumstances or a high probability of success.” *Land v. Deeds*, 878 F.2d  
13 318, 318 (9th Cir. 1989) (citing *Aronson v. May*, 85 S. Ct. 3, 5 (1964)). The special  
14 circumstances test originated in *Wright v. Henkel*, which “established that district courts  
15 may release relators when ‘special circumstances’ are present.” *Wroclawski v. United States*,  
16 634 F. Supp. 2d 1003, 1005 (D. Ariz. 2009) (quoting *Wright v. Henkel*, 190 U.S. 40, 63  
17 (1903)).

18 41. Under this test, “[b]ail is appropriate pending a decision in a habeas case ‘only  
19 when the petitioner has [1] raised substantial constitutional claims upon which he has a  
20 high probability of success, and [2] extraordinary or exceptional circumstances exist which  
21 make the grant of bail necessary to make the habeas remedy effective.’” *Tam v. I.N.S.*, 14  
22 F. Supp. 2d 1184, 1190 (E.D. Cal. 1998) (quoting *Landano v. Rafferty*, 970 F.2d 1230, 1239

(3rd Cir. 1992). “Examples of such circumstances include ... a serious deterioration of health while incarcerated[] and unusual delay in the appeal process.” *Salerno v. United States*, 878 F.2d 317, 317 (9th Cir. 1989).

## **ARGUMENT**

### **I. WAIVER OF PRUDENTIAL EXHAUSTION REQUIREMENTS IS APPROPRIATE.**

#### **a. The *Puga* factors weigh against prudential exhaustion.**

42. The first *Puga* factor asks whether “agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision.” *Puga*, 488 F.3d at 815. Petitioner’s administrative record is already extensive and Petitioner’s statutory removal protection alone establishes that his removal is not reasonably foreseeable. In another case involving a habeas petition by an ICE detainee with a pending *prima facie* TPS application, the court concluded that “an administrative appellate record is not necessary to resolve the legal question of whether there is a significant likelihood of removal in the reasonably foreseeable future.” *Salad*, 769 F. Supp. 3d at 922.

43. Second, nothing indicates that “relaxation of the [exhaustion] requirement would encourage the deliberate bypass of the administrative scheme.” *Puga*, 488 F.3d at 815. *Zadvydas* claims can only be brought after that initial removal period has passed. There is no way for already incarcerated aliens to “deliberately bypass” the administrative scheme of their detention. Furthermore, only a small fraction of alien detainees ever files a habeas petition. The *Salad* court noted that “this issue appears to arise rarely and, once

1 the question is addressed, it may cease to arise.” *Salad*, 769 F. Supp. 3d at 922.

2 44. Third, administrative review is not “likely to ... preclude the need for judicial  
3 review.” *Puga*, 488 F.3d at 815. Immigration courts cannot rule on constitutional matters  
4 and ICE has stated its intention to continue Petitioner’s detention. That position is  
5 unlikely to change without court intervention. Furthermore, just like the petitioner in  
6 *Salad*, Petitioner “would undoubtedly seek this Court’s determination of whether the  
7 standard applied by the agency was correct.” *Salad*, 769 F. Supp. 3d at 922.

8 **b. Irreparable injury.**

9 45. Even if the *Puga* factors weighed against Petitioner, waiver would still be  
10 appropriate because Petitioner’s continuing unlawful detention causes him irreparable  
11 injury. *Hernandez*, 872 F.3d at 988. “It is well established that the deprivation of  
12 constitutional rights ‘unquestionably constitutes irreparable injury.’” *Id.* at 994. (quoting  
13 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). Petitioner is being deprived of his  
14 liberty. Furthermore, Petitioner is at serious risk of erroneous deportation to a third  
15 country and his health has been deteriorating precipitously while detained. *See infra* at ¶  
16 60-61. If Petitioner’s health issues are not adequately addressed, no damages award will  
17 be able to undo the serious physical harm he will suffer. It may also be impossible to  
18 locate and retrieve Petitioner once he has been deported to a dangerous third country.

19 **c. Administrative exhaustion would be futile.**

20 46. Finally, immigration courts and the Board of Immigration Appeals cannot  
21 consider constitutional claims. *See J.P. v. Garland*, 685 F. Supp. 3d 943, 947 (N.D. Cal.  
22 2023) (“[Petitioner] claims a violation of his constitutional rights, which immigration



1 courts do not have the authority to consider”); *Lin v. Waters*, 55 F.3d 421, 425 (9th Cir.  
2 1995) (“the BIA lacks jurisdiction to decide questions of the constitutionality of  
3 governing statutes or regulations”). Since Petitioner has claimed a violation of his  
4 constitutional due process rights, exhaustion of administrative remedies would be futile,  
5 making it appropriate for this Court to waive such requirements. *See Acevedo-Carranza*, 371  
6 F.3d at 541–42.

7 **II. PETITIONER’S CONTINUED DETENTION IS**  
8 **UNCONSTITUTIONAL UNDER *ZADVDAS*.**

9 **a. Ripeness.**

10 47. If this Court were to hear Petitioner’s claims before August 25, he would  
11 have to overcome *Zadvyas*’s reasonableness presumption, which he can easily do. The  
12 *Zadvyas* Court “held that detention for less than six months was presumptively  
13 reasonable but left the lower courts to determine whether detention has ‘exceed[ed] a  
14 period reasonably necessary to secure removal’ in individual cases.” *Trinh*, 466 F. Supp. at  
15 1093 (quoting *Zadvyas*, 533 U.S. at 699). For the reasons discussed hereinafter,  
16 Petitioner’s detention was never reasonably related to his removal to begin with.

17 **b. Removal is not reasonably foreseeable due to TPS protections.**

18 48. Petitioner meets all the eligibility requirements for TPS. He is a national of  
19 Syria, which has been designated for TPS until at least September 30, 2025. Extension and  
20 Redesignation of Syria for Temporary Protected Status, 89 Fed. Reg. 5562-01 (Jan. 29,  
21 2024). Petitioner filed his TPS application on December 9, 2024, within the current  
22 registration period. *Id.* Petitioner has been physically present and residing in the United

1 States since December 21, 2023, before the respective deadlines for continuous residency  
2 and physical presence. *Id.* None of the grounds for ineligibility apply to Petitioner who  
3 has no criminal record and is not “an alien described in section 208(b)(2)(A) of the  
4 [INA].” 8 C.F.R. § 244.4; see Exh. F, p. 54-57; see also 8 U.S.C. § 1158(b)(2)(A). Thus,  
5 Petitioner has established *prima facie* eligibility for TPS, granting him removal protection  
6 under the INA. See 8 U.S.C. §§ 1254a(a)(4)(B), 1254a(a)(1).

7 49. Furthermore, Petitioner’s “*prima facie* eligibility supports an inference that he  
8 is highly likely to obtain TPS because USCIS makes the decision to grant TPS ‘consistent  
9 with the standards of eligibility.’” *Salad*, 769 F. Supp. 3d at 922–23 (citing 8 C.F.R. §  
10 244.10(b) (2011)). In that event, Petitioner will remain unremovable indefinitely unless the  
11 Secretary of State decides to terminate Syria’s TPS designation. If the Secretary takes no  
12 action by September 24, 2025, the program will be automatically extended for at least six  
13 months. 8 U.S.C. § 1254a(b)(3)(C).

14 50. However, Syria is likely to be redesignated because it remains extremely  
15 dangerous. On June 24, the U.S. Embassy in Syria issued a security alert, warning that  
16 “[t]here is an ongoing risk of terrorist violence, including terrorist attacks and other  
17 activity in Syria [and] [d]ue to high tensions in the region, the security environment  
18 remains complex and can change quickly.” *Security Alert – U.S. Citizens in Syria*, U.S.  
19 Embassy in Syria (June 24, 2025), [https://sy.usembassy.gov/security-alert-u-s-citizens-in-](https://sy.usembassy.gov/security-alert-u-s-citizens-in-syria-june-24-2025)  
20 [syria-june-24-2025](https://sy.usembassy.gov/security-alert-u-s-citizens-in-syria-june-24-2025). A “Level 4 – Do Not Travel” advisory by the Department of State  
21 also remains in place, warning that “[n]o part of Syria is safe from violence.” *Syria Travel*  
22 *Advisory*, U.S. DEPARTMENT of STATE — BUREAU of CONSULAR AFFAIRS

1 (March 3, 2025),

2 <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/syria-travel->  
3 [advisory.html](https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/syria-travel-advisory.html).

4 51. Even if Petitioner's TPS application were denied, he "would have a right to  
5 appeal the decision, during which time he would remain unremovable." *Salad*, 769 F.  
6 Supp. 3d at 923 (citing 8 C.F.R. §§ 244.10(c); 244.10(e)(2)). It takes at least about 180 days  
7 for such an appeal to be adjudicated. USCIS.gov, *Questions and Answers: Appeals and*  
8 *Motions*, U.S. Citizenship and Immigration Services (last updated May 14, 2024),  
9 <https://www.uscis.gov/forms/all-forms/questions-and-answers-appeals-and-motions>.  
10 However, an appeal could potentially take years since immigration courts are currently  
11 facing an enormous backlog of cases.

12 52. Consequently, Petitioner will remain unremovable for the foreseeable future.  
13 Thus, there never was a "reasonable relation" between his detention and "the purpose for  
14 which the individual was [detained]." *Zadvydas*, 533 U.S. at 690 (quoting *Jackson v. Indiana*,  
15 406 U.S. 715, 738 (1972)). Petitioner's detention is unreasonable and not authorized by  
16 statute, requiring his immediate release. *Id.* at 699–701.

17 **c. *In arguendo*, Petitioner's withholding grant makes removal not**  
18 **reasonably foreseeable even without TPS protections.**

19 53. Aliens with withholding orders rarely end up being deported at all. "Rather,  
20 the alien typically remains in the United States for the foreseeable future." *Guzman Chavez*,  
21 594 U.S. at 552–53 (Breyer, J., dissenting). The obvious reason is that foreign countries  
22 are unlikely to accept the deportation of random aliens who lack any connection to their

1 territory. *See* John V. Kelly, *ICE Faces Barriers in Timely Repatriation of Detained Aliens*, DHS  
2 Office of the Inspector General, at 8 (March 11, 2019),

3 <https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf>.

4 Historically, ICE has managed to remove only a small fraction of aliens with withholding  
5 grants. In 2017, “just 21 people in total granted withholding of removal were deported to  
6 a third country[,] [which] is just 1.6 percent of the 1,274 people granted withholding of  
7 removal that year.” *The Difference Between Asylum and Withholding of Removal* (Oct. 7, 2020),

8 American Immigration Council & National Immigrant Justice Center,

9 [https://www.americanimmigrationcouncil.org/sites/default/files/research/the\\_difference](https://www.americanimmigrationcouncil.org/sites/default/files/research/the_difference_between_asylum_and_withholding_of_removal.pdf)  
10 [between asylum and withholding of removal.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/the_difference_between_asylum_and_withholding_of_removal.pdf).

11 54. Here, ICE's uncertain and contradictory statements regarding possible  
12 removal destinations demonstrate the absence of any viable removal plan. Upon  
13 Petitioner's initial arrest, ICE agents falsely claimed that his withholding order had been  
14 vacated and that he would be removed to either Syria or Guantanamo Bay. Officer Suarez  
15 also initially told Petitioner that ICE would attempt to remove him to Syria. On March  
16 17, during a call with Petitioner's attorney, Officer Suarez finally admitted that Petitioner  
17 could not be removed to Syria but claimed that ICE was attempting to contact third  
18 countries for removal, including Iraq, Mexico, and an additional unnamed country.

19 55. That ICE allegedly reached out to Iraq for the deportation of a Syrian  
20 national illustrates the absence of viable third countries since Iraqi authorities have been  
21 known to arbitrarily detain and deport Syrian refugees to Syria. Far from having a  
22 concrete plan for Petitioner's removal, ICE appears to be haphazardly reaching out to

1 random countries to which Petitioner has no connection whatsoever. It strains credulity  
2 to think that such an approach will result in Petitioner's removal anytime in the  
3 foreseeable future.

4 56. Even if ICE were to find a third country for removal, Petitioner could still  
5 affirmatively state fear of removal, which would require ICE to conduct a screening for  
6 eligibility for withholding or CAT protections. If Petitioner demonstrated a reasonable  
7 possibility of persecution or torture at such a screening, or an IJ subsequently vacated a  
8 negative finding by an asylum officer, Petitioner would again enter withholding  
9 proceedings, which took approximately six months to complete the first time.

10 57. Thus, even in a hypothetical situation without TPS protections, Petitioner's  
11 removal would not be reasonably foreseeable because he cannot be removed to his home  
12 country. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1081-82 (9th Cir. 2006) (finding removal  
13 not reasonably foreseeable where the government was not entitled to remove an alien to  
14 his country of origin, and no other country had been identified to which he might be  
15 removed, forming a powerful indication of the improbability of foreseeable removal).

16 **III. PETITIONER SATISFIES THE REQUIREMENTS FOR RELEASE**  
17 **ON BAIL**

18 **a. Substantial constitutional claim with a high likelihood of success.**

19 58. Petitioner has "raised substantial constitutional claims upon which he has a  
20 high probability of success," *Tam*, 14 F. Supp. 2d at 1190 (quoting *Landano*, 970 F.2d at  
21 1239), because he is unremovable for the foreseeable future and thus, his detention is in  
22 violation of the Fifth Amendment under *Zadvydas*. *See supra* ¶ 48-52.



1           **b. Extraordinary circumstances.**

2           59. Extraordinary circumstances exist because there is a severe risk of erroneous  
3 deportation, Petitioner's health has seriously deteriorated while in custody, the conditions  
4 at Adelanto have been deteriorating rapidly in recent months to the point of posing an  
5 acute threat to Petitioner's health and safety, and Petitioner has been a de facto prisoner  
6 for almost five months without being charged with any crime.

7           60. Despite Petitioner notifying ICE of his pending TPS application during his  
8 arrest and presenting the arresting officers with his TPS receipt notice, ICE has chosen to  
9 simply ignore Petitioner's removal protections under 8 U.S.C. § 1254a. Initially, Officer  
10 Suarez even stated that Petitioner would be deported to Syria, the very country for which  
11 removal withholding had been granted. To be clear, Petitioner cannot be deported *at all*  
12 until a decision on his TPS application has been reached.

13           61. Yet ICE continues its efforts to unlawfully deport Petitioner to a random list  
14 of third countries, including Iraq and Mexico, putting him at severe risk of erroneous  
15 deportation—potentially to a very dangerous place. *See* Mattathias Schwartz, *Court Rejects*  
16 *Effort to Keep Migrants From Being Sent to South Sudan*, N.Y. Times (Jul. 4, 2025),  
17 <https://www.nytimes.com/2025/07/04/us/politics/trump-migrants-lawsuit-sudan.html>  
18 (describing the deportation of “men hailed from Vietnam, Mexico, Laos, Cuba and  
19 Myanmar ... [to] South Sudan, a violence-plagued country”); *See also Nak Kim Chhoeun v.*  
20 *Marin*, 442 F. Supp. 3d 1233, 1248 (C.D. Cal. 2020) (“the haste with which the  
21 government seeks to remove [aliens] creates a high risk of erroneous liberty  
22 deprivations”).



1           62. Extraordinary circumstances also exist because Petitioner has been  
2 experiencing “a serious deterioration of health while incarcerated.” *United States v. Mett*, 41  
3 F.3d 1281, 1282 n.4 (9th Cir. 1994) (quoting *Salerno*, 878 F.2d at 317). When Petitioner  
4 entered Respondents’ custody, he was in good health. Within less than a month, he was  
5 reporting pain levels of 6 out of 10 in his right shoulder and his right arm’s range of  
6 motion had decreased. Now, he can no longer abduct his right shoulder and the pain,  
7 rated at 10 out of 10, has spread to his right hand, which he can no longer fully use.

8           63. This condition has only been treated with pain medication, including high  
9 doses of Ibuprofen, which can lead to severe health issues if taken for a prolonged period  
10 of time. *See* Muhammed Ershad & Muhammad Atif Ameer, *Ibuprofen Toxicity*, National  
11 Center for Biotechnology Information (last updated April 30, 2024),  
12 <https://www.ncbi.nlm.nih.gov/books/NBK526078/> (noting that “[t]he severity of  
13 gastrointestinal adverse effects [caused by overuse of Ibuprofen] can range from  
14 dyspepsia to life-threatening upper gastrointestinal hemorrhage or viscous organ  
15 rupture”). Not only has this treatment been ineffective but Petitioner soon started  
16 reporting blood in his stool and urine. Around July 4, 2025, Petitioner was rushed to  
17 Adelanto’s emergency room due to internal bleeding caused by the Ibuprofen, which was  
18 discontinued. No alternative treatment has been provided.

19           64. Unless this Court orders Petitioner’s release—allowing him to seek proper  
20 medical attention outside of Adelanto—his already severely compromised health is likely  
21 to deteriorate even further. Notably, deaths in ICE detention have been reaching record  
22 numbers lately. Marina Dunbar, *Two more Ice deaths put US on track for one of deadliest years in*

1 *immigration detention*, The Guardian (June 30, 2025), [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2025/jun/30/us-ice-detention-deaths)  
2 [news/2025/jun/30/us-ice-detention-deaths](https://www.theguardian.com/us-news/2025/jun/30/us-ice-detention-deaths).

3 65. In recent months, conditions at Adelanto have deteriorated rapidly. “In less  
4 than two months, the number of detainees in [Adelanto] has surged from around 300  
5 near the end of April to more than 1,200 as of [June 18, 2025].” Jenny Jarvie & Nathan  
6 Solis, *Moldy food, dirty towels: Critics warn of inhumane conditions at California’s largest detention*  
7 *center*, Los Angeles Times (Jun. 20, 2025),  
8 [https://www.latimes.com/california/story/2025-06-20/unsanitary-overcrowded-and-](https://www.latimes.com/california/story/2025-06-20/unsanitary-overcrowded-and-inhumane-red-flags-raised-about-conditions-in-adelanto-detention-center)  
9 [inhumane-red-flags-raised-about-conditions-in-adelanto-detention-center](https://www.latimes.com/california/story/2025-06-20/unsanitary-overcrowded-and-inhumane-red-flags-raised-about-conditions-in-adelanto-detention-center). Even staff have  
10 “warn[ed] that conditions inside have become increasingly unsafe and unsanitary.” *Id.*  
11 Detainees report not receiving clean clothes, underwear or towels for 10 days, being given  
12 moldy food and having to sleep on the floor. *Id.* “In May, a detainee went into  
13 anaphylactic shock and ended up intubated in the hospital” because an overworked  
14 officer accidentally gave him food he was allergic to. *Id.* Petitioner himself stated that he  
15 has been deprived of water and food for more than a day and even when there is food,  
16 his daily mail only consists of two boiled vegetables, a (sometimes rotten) piece of meat,  
17 and occasionally a piece of bread. Civil immigration detention facilities are supposed to be  
18 “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690. Yet Petitioner, who has  
19 not been accused of any crime, is being subjected to worse conditions than many felons,  
20 putting his health and safety in serious danger. Thus, the conditions of Petitioner’s  
21 detention are in and of themselves extraordinary.

22 66. In *Tam*, the court found extraordinary circumstances where the “[p]etitioner

1 [wa]s a de facto permanent prisoner neither charged with nor convicted of any crime.”  
2 *Tam*, 14 F. Supp. 2d at 1192. The same is true of Petitioner who has been unlawfully  
3 detained for almost five months. Petitioner had already been detained by ICE for six  
4 months upon his arrival in the United States, meaning that he has spent almost eleven  
5 months total in ICE detention. For these reasons, “extraordinary or exceptional  
6 circumstances exist which make the grant of bail necessary to make the habeas remedy  
7 effective.” *Tam*, 14 F. Supp. 2d at 1190.

8 **c. Petitioner is not a flight risk.**

9 67. Respondents justify Petitioner’s continuing detention by claiming that he is a  
10 flight risk, offering no evidence in support. The BIA uses a nine-factor test to determine  
11 whether an immigrant detainee is a flight risk or poses a danger to the community. *Al-*  
12 *Sadeai v. U.S. Immigr. & Customs Enf’t*, 540 F. Supp. 3d 983, 991 (S.D. Cal. 2021) (citing *In*  
13 *Re Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006)). The test considers (1) whether the  
14 immigrant has a fixed address in the United States; (2) how long he has resided in the  
15 United States; (3) whether he has family in the United States; (4) his employment history;  
16 (5) his record of appearance(s) in court; (6) his criminal record; (7) any history of  
17 immigration violations; (8) any attempts to flee prosecution or otherwise escape from  
18 authorities; and (9) the manner of entry into the United States. *Id.*

19 68. Seven of the nine factors weigh in favor of Petitioner. (1) He has a fixed  
20 address in the United States. (2) He has been residing in the United States for about  
21 nineteen months, suggesting that he has put down roots here. (4) He has been employed  
22 for at least part of his time in the United States. (5) He has an extensive record of

1 appearing in court when summoned. (6) He has no criminal record and (7) has never  
2 violated the conditions of his release. In fact, he has been exceptionally diligent in his  
3 compliance with ICE orders. (8) He has not attempted to flee prosecution or otherwise  
4 escape from authorities. He has voluntarily visited ICE offices and was re-detained while  
5 attending a scheduled ICE check-in appointment. The only factors weighing against him  
6 are that he (3) does not have family in the United States and (9) initially crossed the  
7 border illegally. En balance, the *Guerra* factors strongly suggest that Petitioner is not a  
8 flight risk.

9 69. Furthermore, Petitioner's pending *prima facie* TPS application provides a  
10 strong incentive for him to remain in compliance with any conditions placed upon his  
11 release because not doing so would jeopardize the legal status he is so close to gaining.

12 70. In sum, Petitioner has raised a substantial constitutional claim with a high  
13 likelihood of success, extraordinary circumstances make the grant of bail necessary, and  
14 the government's justification for Petitioner's detention—flight risk—is unconvincing by  
15 the government's own standards. Thus, Petitioner should be granted bail pending the  
16 outcome of this petition.

**PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Order Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
- ~~(4)~~ Order the immediate release of Petitioner pending these proceedings;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner;
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

"The undersigned, counsel of record for Zuhir Zin Eddin, certifies that this brief contains 6997 words, which complies with the word limit of L.R. 11-6.1.

DATED: July 17, 2025

Respectfully submitted,

/s/ Daniel T. Huang  
Daniel T Huang, Esq.

/s/ Paul Hoffman  
Paul Hoffman, Esq.

**Pro Bono Counsels for Petitioner**

1 Zin Eddin v. Noem, et. al.

2 **List of Exhibits**

3 Exhibit A: Declaration of Zuhir Zin-Eddin 03.10.25, page 29

4 Exhibit B: Declaration of Monia Ghacha 05.27.25, page 33

5 Exhibit C: ICE Policy Memo 03.30.25, page 36

6 Exhibit D: TPS Receipt Notice 12.11.24, page 38

7 Exhibit E: Order Granting Withholding of Removal 06.14.24, page 40

8 Exhibit F: TPS Packet, page 42

9 Exhibit G: In-Processing Health Screening Form, page 68

10 Exhibit H: Musculoskeletal Pain or Trauma Assessment 03.22.25, page 69

11 Exhibit I: Musculoskeletal Pain or Trauma Assessment 05.28.25, page 74

12 Exhibit J: Intake Screening and Education Report 02.26.25, page 79

13 Exhibit K: Chronic Care Treatment Plan 06.04.25, page 86

14 Exhibit L: Medical History and Physical Assessment 03.06.25, page 94

15 Exhibit M: Supplemental Declaration of Monia Ghacha 07.14.25, page 101

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