UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

AMIR HOSSEIN MAHDEJIAN

Petitioner,

v.

BRET BRADFORD, *in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Houston Field Office;*

ALEXANDER SANCHEZ, *in his official capacity as Facility Administrator of the IAH Secure Adult Detention Facility;* and

KRISTI NOEM, *in her official capacity as Secretary, U.S. Department of Homeland Security*;

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

Case No.: 1:25-cv-341

INTRODUCTION

1. Petitioner Amir Hossein Mahdejian ("Petitioner") faces potentially imminent removal to an unknown country. Not only has he not been notified of his destination, he has been given no opportunity to demonstrate that his life or freedom would be threatened in this unknown country, or that officials in control of this country will turn around and deport him to the one country a U.S. immigration judge determined he could *not* be deported to—Iran. The law requires that he be given

such notice and opportunity. For this reason, the Court should issue a writ of habeas corpus.

JURISDICTION AND VENUE

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

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 *et seq*. (habeas corpus); art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 5 U.S.C. § 701 (Administrative Procedure Act); and 28 U.S.C. § 2201 (injunctive relief pursuant to the Declaratory Judgment Act).

4. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Habeas is also the appropriate vehicle to challenge a removal that does not comply with the Constitution or duly enacted statutes. *Heikkila v. Barber*, 3445 U.S. 229, 235-36 (1953) (recognizing availability of habeas to vindicate due process rights violated by deportation procedures); *see also Trump v. J.G.G.*, 604 U.S. ___, 2025 WL 1024097 at *1 (2025) (holding that individuals whom the government seeks to deport in circumvention of the immigration laws under the Alien Enemies Act can challenge their removal in habeas).

5. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at the IAH Secure Adult Detention Facility in Livington, Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

PARTIES

8. Petitioner Amir Hossein Mahdejian is an Iranian national who is detained at IAH Secure Adult Detention Facility in Livingston, Texas. He fled Iran's fundamentalist regime when he was a young boy and has resided in the United States since the age of four. He is at imminent risk of removal to an unknown country. On July 20, 2011, a U.S. immigration judge sitting in Houston, Texas, granted Petitioner

withholding of removal to Iran under 8 U.S.C. § 1231(b)(3). Exhibit 1. The order authorizes Petitioner's removal "to Germany, and in the alternative, any country other than Iran permitted under section 241 of the Immigration and Nationality Act [8 U.S.C. § 12331]." *Id.*

9. Respondent Bret Bradford is the director of ICE's Houston Field Office, which is responsible for ICE activities in the Houston Area of Responsibility, which encompasses the IAH Secure Adult Detention Facility. Respondent Bradford is an immediate legal custodian responsible for the arrest and detention of Petitioner. He is sued in his official capacity.

10. Respondent Alexander Sanchez is the Facility Administrator of the IAH Secure Adult Detention Facility, which detains individuals suspected of immigration violations pursuant to a contract with ICE. Respondent Sanchez is the immediate physical custodian responsible for Petitioner's detention. He is sued in his official capacity.

11. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security, which is a cabinet-level department of the United States government. She is sued in her official capacity. In that capacity, Respondent Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103.

LEGAL FRAMEWORK

A. Section 240 Removal Proceedings

12. In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The Act generally retained prior procedures for removal hearings for all noncitizens—i.e., full immigration court hearings, appellate review before the Board of Immigration Appeals, and federal court review. See 8 U.S.C. § 1229a; 8 U.S.C. § 1252(a). In these removal proceedings (commonly referred to as "Section 240" proceedings), 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 immigration judge ("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).

13. An IJ must provide sufficient notice and opportunity to apply for protection from a designated country of removal. 8 C.F.R. § 1240.10(f) (providing that the "immigration judge *shall notify* the respondent" of designated countries of removal) (emphasis added); 8 C.F.R. § 1240.11(c)(1)(i) (providing that the IJ shall

"[a]dvise the [noncitizen] that he or she may apply for asylum in the United States or withholding of removal to [the designated countries of removal]").

14. Asylum is a form of protection available in Section 240 removal proceedings. An IJ may grant asylum in the exercise of discretion where the applicant demonstrates a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion" in their country of origin. 8 U.S.C. §§ 1101(a)(42), 1158(b)(1)(A); *see also* 8 C.F.R. §§ 208.1, 1208.1. Once granted asylum, an individual generally cannot be deported to their country of origin or any other country absent subsequent unlawful conduct, evidence of fraud in the asylum application, or a fundamental change in country conditions. *See generally* 8 U.S.C. § 1158(c)(2); 8 C.F.R §§ 208.24, 1208.24.

15. For individuals determined to be ineligible for asylum, Congress further provided, with certain exceptions not relevant here, that "notwithstanding [8 U.S.C. §§ 1231(b)(1) and (2)], the Attorney General [i.e., DHS] may not remove [a noncitizen] to a country if the Attorney General [(i.e., an immigration judge)] 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); *see also* 8 C.F.R. §§ 208.16, 1208.16. This form of protection, known as withholding of removal, is mandatory, i.e., it cannot be denied to eligible individuals in the exercise of

discretion. Unlike asylum, the protection of withholding of removal is country-specific.

16. Individuals in Section 240 proceedings who are ineligible for withholding of removal, are still entitled to receive protection under the United Nations Convention Against Torture (CAT), in the form of withholding or deferral of removal, upon demonstrating a likelihood of torture if removed to the designated country of removal. *See* FARRA (codified as Note to 8 U.S.C. § 1231); 8 C.F.R. §§ 208.16(c), 208.17(a), 1208.16(c), 1208.17(a); 28 C.F.R. § 200.1. Like withholding of removal under 8 U.S.C. § 1231(b)(3), CAT protection is mandatory. *Id.* With respect to any individual granted deferral of removal under CAT, the IJ "shall also inform the [noncitizen] that removal has been deferred only to the country in which it has been determined that the [noncitizen] is likely to be tortured, and that the [noncitizen] may be removed at any time to another country where he or she is not likely to be tortured." 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2).

17. An IJ may only terminate a grant of CAT protection based on evidence that the person will no longer face torture. DHS must move for a new hearing and provide evidence "relevant to the possibility that the [noncitizen] would be tortured in the country to which removal has been deferred and that was not presented at the previous hearing." 8 C.F.R. §§ 208.17(d)(1), 1208.17(d)(1). If a new hearing is granted, the IJ must provide notice "of the time, place, and date of the termination

hearing," and must inform the noncitizen of the right to "supplement the information in his or her initial [withholding or CAT] application" "within 10 calendar days of service of such notice (or 13 calendar days if service of such notice was by mail)." 8 C.F.R. §§ 208.17(d)(2), 1208.17(d)(2).

18. Individuals in Section 240 proceedings are entitled to an administrative appeal to the BIA along with an automatic stay of deportation while the appeal is pending, and to seek judicial review of an adverse administrative decision by filing a petition for review in the court of appeals. *See* 8 U.S.C. §§ 1101(a)(47)(B), 1252(a); 8 C.F.R. §§ 1003.6(a), 1240.15.

B. Statutory Scheme for Removal to a Third Country

19. Congress established the statutory process for designating countries to which noncitizens may be removed, 8 U.S.C. § 1231(b)(1)-(3).[1]

20. Subsection (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." It designates countries and alternative countries to which the noncitizen may be removed. 8 U.S.C. § 1231(b)(1)(B) (removal to contiguous country from which the noncitizen traveled), § 1231(b)(1)(C) (alternative countries).

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[1] 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).

21. Subsection (b)(2) applies to all other noncitizens, and like Subsection (b)(1), designates countries and alternative countries to which the noncitizen may be removed. 8 U.S.C. § 1231(b)(2)(A) (noncitizen's designation of a country of removal), 1231(b)(2)(B) (limitation on designation), 1231(b)(2)(C) (disregarding designation), 1231(b)(2)(D) (alternative country), 1231(b)(2)(D) (alternative countries), 1231(b)(2)(E) (additional removal countries).

22. Critically, both Subsections (b)(1) and (b)(2), have a specific carve-out 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.

Id. § 1231(b)(3)(A) (emphasis added).

23. Similarly, with respect to the Convention Against Torture, the implementing regulations allow for removal to a third country, but only "where he or she is not likely to be tortured." 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2).

24. In *Jama v. Immigr. & Customs Enf't*, the Supreme Court addressed the designation procedure under Subsection (b)(2). 543 U.S. 335 (2005). Critically, the Court stated that noncitizens who "face persecution or other mistreatment in the

country designated under § 1231(b)(2), . . . have a number of available remedies: asylum; withholding of removal; relief under an international agreement prohibiting torture . . . ." *Jama*, 543 U.S. at 348 (citing 8 U.S.C. §§1158(b)(1), 1231(b)(3)(A); 8 C.F.R. §§ 208.16(c)(4), 208.17(a)).

25. Although individuals granted CAT protection may be removed to a third country, the regulations provide that they may not be removed to a country where they are likely to be tortured: "The immigration judge shall also inform the [noncitizen] that removal has been deferred only to the country in which it has been determined that the [noncitizen] is likely to be tortured, and that the [noncitizen] may be removed at any time to another country where he or she is not likely to be tortured." 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2).

26. Notably, the regulations require that certain procedural safeguards be followed before protection under CAT may be terminated based on evidence that the person will no longer face torture. First, the regulations require DHS to move for a new hearing, requiring that DHS support their motion for the new hearing with evidence "relevant to the possibility that the [noncitizen] would be tortured in the country to which removal has been deferred and that was not presented at the previous hearing." 8 C.F.R. §§ 208.17(d)(1), 1208.17(d)(1). Second, even if a new hearing is granted, the regulations require that the IJ provide the noncitizen with notice "of the time, place, and date of the termination hearing. Such notice shall

inform the [noncitizen] that the [noncitizen] may supplement the information in his or her initial application for withholding of removal under the Convention Against Torture and shall provide that the [noncitizen] must submit any such supplemental information within 10 calendar days of service of such notice (or 13 calendar days if service of such notice was by mail)." 8 C.F.R. §§ 208.17(d)(2), 1208.17(d)(2). Thus, not only is the noncitizen provided notice, but also an opportunity to submit documentation in support of their claim for protection.

C. DHS' Obligation to Provide Notice and Opportunity to Present a Fear-Based Claim Before Deportation to a Third Country

27. For individuals in removal proceedings, the on-the-record designation of a country or countries of removal provides notice and an opportunity to permit a noncitizen who fears persecution or torture in the designated country (or countries) to file an application for protection. *See* 8 C.F.R. § 1240.10(f) (stating that "immigration judge shall notify the [noncitizen]" of proposed countries of removal); 8 C.F.R. § 1240.11(c)(1)(i) ("If the [noncitizen] expresses fear of persecution or harm upon return to any of the countries to which the [noncitizen] might be removed pursuant to § 1240.10(f) . . . the immigration judge shall . . . [a]dvise [the noncitizen] that he or she may apply for asylum in the United States or withholding of removal to those countries[.]").

28. Pursuant to § 1231(b)(3)(A), courts repeatedly have held that individuals cannot be removed to a country that was not properly designated by an IJ if they have a fear of persecution or torture in that country. S*ee Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); 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").

29. Providing such notice and opportunity to present a fear-based claim prior to deportation also implements the United States' obligations under international law. *See* United Nations Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 150; United Nations Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267; Refugee Act of 1980, Pub. L. 96-212, § 203(e), 94 Stat. 102, 107 (codified as amended at 8 U.S.C. § 1231(b)(3)); *INS v. Stevic*, 467 U.S. 407, 421 (1984) (noting that the Refugee Act of 1980 "amended the language of [the predecessor statute to § 1231(b)(3)], basically conforming it to the language of Article 33 of the United Nations Protocol"); *see also* United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature Dec. 10, 1984, art. III, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85, 114; FARRA at 2681–822

(codified at Note to 8 U.S.C. § 1231) ("It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."); United Nations Committee Against Torture, General Comment No. 4 ¶ 12, 2017, Implementation of Article 3 of the Convention in the Context of Article 22, CAT/C/GC/4 ("Furthermore, the person at risk [of torture] should never be deported to another State where he/she may subsequently face deportation to a third State in which there are substantial grounds for believing that he/she would be in danger of being subjected to torture.").

30. Meaningful notice and opportunity to present a fear-based claim prior to deportation to a country where a person fears persecution or torture are also fundamental due process protections under the Fifth Amendment. *See Andriasian*, 180 F.3d at 1041; *Protsenko*, 149 F. App'x at 953; *Kossov*, 132 F.3d at 408; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Similarly, a "last minute" IJ designation of a country during removal proceedings that affords no meaningful opportunity to apply for protection "violate[s] a basic tenet of constitutional due process." *Andriasian*, 180 F.3d at 1041.

31. The federal government has repeatedly acknowledged these obligations. In June 2001, the former Immigration and Naturalization Service drafted

a document entitled "Notice to Alien of Removal to Other than Designated Country (Form I-913)," which would have provided noncitizens with written notice of deportation to a third country and a 15-day automatic stay of removal to allow the noncitizen to file an unopposed motion to reopen removal proceedings and accompanying Form I-589 (protection application) before an IJ. Almost twenty years later, in June 2020, DHS again drafted a model "Notice of Removal to Other than Designated Country," that likewise provided these protections. Although neither form was ever published, both reflect how notice must be provided to be meaningful.

32. Additionally, in 2005, in jointly promulgating regulations implementing 8 U.S.C. § 1231(b), the Departments of Justice and Homeland Security asserted that "[a noncitizen] will have the opportunity to apply for protection as appropriate from any of the countries that are identified as potential countries of removal under [8 U.S.C. § 1231(b)(1) or (b)(2)]." Execution of Removal Orders; Countries to Which Aliens May Be Removed, 70 Fed. Reg. 661, 671 (Jan. 5, 2005) (codified at 8 C.F.R. pts. 241, 1240, 1241) (supplementary information). Furthermore, the Departments contemplated that, in cases where ICE sought removal to a country that was not designated in removal proceedings, namely, "removals pursuant to [8 U.S.C. § 1231(b)(1)(C)(iv) or (b)(2)(E)(vii)]," DHS would

join motions to reopen "[i]n appropriate circumstances" to allow the noncitizen to apply for protection. Id.

33. Furthermore, consistent with the above-cited authorities, at oral argument in *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021), the Assistant to the Solicitor General represented that the government must provide a noncitizen with notice and an opportunity to present a fear-based claim before that noncitizen can be deported to a non-designated third country. Specifically, at oral argument in that case, the following exchange between Justice Kagan and Vivek Suri, Assistant to the Solicitor General, took place:

> JUSTICE KAGAN: . . . [S]uppose you had a third country that, for whatever reason was willing to accept [a noncitizen]. If -- if -- if that [noncitizen] was currently in withholding proceed -- proceedings, you couldn't put him on a plane to that third country, could you?
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> MR. SURI: We could after we provide the [noncitizen] notice that we were going to do that.
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> JUSTICE KAGAN: Right. MR. SURI: But, without notice –
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> JUSTICE KAGAN: So that's what it would depend on, right? That -- that you would have to provide him notice, and if he had a fear of persecution or torture in that country, he would be given an opportunity to contest his removal to that country. Isn't that right?
>
> MR. SURI: Yes, that's right.
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> JUSTICE KAGAN: So, in this situation, as to these [noncitizens] who are currently in withholding proceedings, you can't put them on a plane to anywhere right now, isn't that right?

> MR. SURI: Certainly, I agree with that, yes.
>
> JUSTICE KAGAN: Okay. And that's not as a practical matter. That really is, as -- as you put it, in the eyes of the law. In the eyes of the law, you cannot put one of these [noncitizens] on a plane to any place, either the -- either the country that's referenced in the removal order or any other country, isn't that right?
>
> MR. SURI: Yes, that's right.

See Transcript of Oral Argument at 20-21, *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021).

34. Notice is only meaningful if it is presented sufficiently in advance of the deportation to stop the deportation, is in a language the person understands, and provides for an automatic stay of removal for a time period sufficient to permit the filing of a motion to reopen removal proceedings so that a third country for removal may be designated as required under the regulations and the noncitizen may present a fear-based claim. *Andriasian*, 180 F.3d at 1041; *Aden*, 409 F. Supp. 3d at 1009 ("A noncitizen must be given sufficient notice of a country of deportation [such] that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation.").

35. An opportunity to present a fear-based claim is only meaningful if the noncitizen is not deported before removal proceedings are reopened. *See Aden*, 409 F. Supp. 3d at 1010 (holding that merely giving petitioner an opportunity to file a discretionary motion to reopen "is not an adequate substitute for the process that is

due in these circumstances" and ordering reopening); *Dzyuba v. Mukasey*, 540 F.3d 955, 957 (9th Cir. 2008) (remanding to BIA to determinate whether designation is appropriate).

D. Detention of Noncitizens Granted Withholding of Removal or Deferral of Removal under the Convention Against Torture

36. 8 U.S.C. § 1231 governs the detention of non-citizens "during" and "beyond" the "removal period." 8 U.S.C. § 1231(a)(2)-(6). The "removal period" begins once a non-citizen's removal order "becomes administratively final." 8 U.S.C. § 1231(a)(1)(B).[2] The removal period lasts for 90 days, during which ICE "shall remove the [non-citizen] from the United States" and "shall detain the [non-citizen]" as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the non-citizen within the 90-day removal period, the non-citizen "may be detained beyond the removal period" if they meet certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added).

37. To avoid "indefinite detention" that would raise "serious constitutional concerns," the Supreme Court in *Zadvydas* construed § 1231(a)(6) to contain an implicit time limit. 533 U.S. at 682. *Zadvydas* dealt with two non-citizens who could not be removed to their home country or country of citizenship due to bureaucratic

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[2] There are two other events that trigger the start of the removal period, which are not applicable here. *See* 8 U.S.C. § 1231(a)(1)(B)(ii)-(iii).

and diplomatic barriers. The Court held that § 1231(a)(6) authorizes detention only for "a period reasonably necessary to bring about the [non-citizen]'s removal from the United States." *Id.* at 689. Six months of post-removal order detention is considered "presumptively reasonable." Id. at 701.

38. But the "*Zadvydas* Court did not say that the presumption is irrebuttable, and there is nothing inherent in the operation of the presumption itself that requires it to be irrebuttable." *Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008). "Within the six-month window," the non-citizen bears the burden of "prov[ing] the unreasonableness of detention." *Id.* Once six months have elapsed since the "removal period" began, if there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the Government to justify continued detention. *Zadvydas*, 533 U.S. at 701; see also Cesar, 542 F. Supp. 2d at 903 ("[T]he presumption scheme merely suggests that the burden the detainee must carry within the first six months of [postorder] detention is a heavier one than after six months has elapsed").

STATEMENT OF FACTS

39. Petitioner is an Iranian national. As a young boy, he and his family fled Iran's fundamentalist regime. He has resided in the United States since approximately 1988, having entered the country when he was approximately five

years old. He is also a husband to a U.S. citizen wife, father to two U.S. citizen children, and a small business owner.

40. On July 20, 2011, a U.S. immigration judge ("IJ") sitting in Houston, Texas, granted Petitioner withholding of removal to Iran under 8 U.S.C. § 1231(b)(3) following Section 240 proceedings. Neither party reserved appeal and so the IJ's decision became final on the same day the decision was handed down.

41. The order of removal in Petitioner's case provides that his removal to Iran is withheld, but orders him removed to Germany, and in the alternative, "any country other than Iran permitted under section 241 of the Immigration and Nationality Act [8 U.S.C. § 12331]." Exhibit 1.

42. Upon information and belief, Germany, a country through which he transited en route to the United States, previously refused to issue travel documents to Petitioner.[3]

43. On February 18, 2025, Immigration and Customs Enforcement ("ICE") issued a directive encouraging the increased use of third-country removals against individuals like the Petitioner, who were granted withholding of removal. On June 23, 2025, the Supreme Court of the United States lifted a preliminary injunction that had previously barred DHS from deporting noncitizens to unspecified third countries

[3] If Respondents confirm that they will remove Petitioner to Germany, this habeas petition will be withdrawn, because Respondent does not fear for his life or freedom in Germany.

without first providing notice and a meaningful opportunity to challenge removal. *DHS v. D.V.D.*, ___ S. Ct. ___ (2025).

44. Petitioner was lawfully present in the United States when he was apprehended by U.S. Immigration and Customs Enforcement ("ICE") agents on Monday, June 23, 2025. He is presently detained at the IAH Secure Adult Detention Facility in Livingston, Texas.

45. Since his detention, Petitioner has repeatedly attempted to speak with a deportation officer to learn where ICE intends to deport him and to assert that he would like to be screened for a fear of persecution or torture in that country. The list of third countries to which Petitioner may be expelled and to which Respondents have recently been deporting noncitizens, includes Libya, Rwanda, and South Sudan – countries that are experiencing civil wars and where human rights violations are rampant.

46. Upon information and belief, Respondents have secured blanket diplomatic assurances from third countries to which they intend to deport noncitizens. Such "assurances" amount to little more than generic commitments not to torture deportees.

CLAIMS FOR RELIEF

COUNT I
Petitioner's Potential Removal Violates the Immigration and Nationality Act and Regulations Implementing Convention Against Torture

47. Petitioner restates and realleges all paragraphs as if fully set forth herein.

48. It would be a violation of the Immigration and Nationality Act and the regulations implementing the Convention Against Torture for Respondents to remove Petitioner without giving him notice of the third country to which he is being removed or a meaningful opportunity to establish that his life or freedom would be threatened in the third country.

49. The Immigration and Nationality Act and the regulations implementing the Convention Against Torture require *an individualized assessment* of the risks faced by the noncitizen in the contemplated country of removal.

50. The Immigration and Nationality Act prohibits the United States from removing a noncitizen to a country if "the alien's" life or freedom would be threatened in that country because of "the alien's" race, religion, nationality, membership in a particular social group, or political opinion. 8 U.S.C. § 1231(b)(3)(A).

51. The regulations implementing the Convention Against Torture similarly require an individualized assessment of the noncitizen's risk of torture.

52. These regulations do not allow the United States to remove an individual to a country based solely on blanket diplomatic assurances from that country's government that it will not persecute or torture deportees from the United States. *See* 8 C.F.R. § 1208.18(c). Indeed, the regulation make clear that obtaining diplomatic assurances is an extraordinary process, relating to a specific individual, where a select few high-level officers are sufficiently involved to provide such assurance in an individual case. The regulation states that "[t]he Secretary of State may forward to the Attorney General assurances that the Secretary has obtained from the government of a specific country that *an alien* would not be tortured there if the alien were removed to that country." *Id.* § 1208.18(c)(1) (emphasis added); *see also id.* § 1208.18(c)(2), (c)(3) (referencing "the alien").

53. These references in 8 U.S.C. § 1231(b)(3)(A) and the regulations implementing the Convention Against Torture to a singular individual ("an alien," "the alien") show that any diplomatic assurance must be specific to the individual and cannot be a categorical diplomatic assurance, covering all individuals deported to a particular country. *See, e.g., Niz-Chavez v. Garland*, 593 U.S. 155, 161 (2021) (examining the "ordinary meaning" of statutory text and finding that "[t]o an ordinary reader—both in 1996 and today—'a' notice would seem to suggest just that: 'a' single document").

54. If Respondents have obtained from the third country blanket diplomatic assurances that Petitioner and other deportees from the United States to said third country will not be persecuted or tortured, such blanket assurances do not offer protection against torture by nonstate actors, nor do they address the danger of chain *refoulement*, whereby the third country proceeds to return an individual to their country of origin, as has occurred following a recent third country removal.[4]

55. Depriving Petitioner of notice of the country to which he will be removed and of a meaningful opportunity to raise a fear claim, even in the face of blanket diplomatic assurances, would be fundamentally incompatible with the statutory and regulatory prohibition on removal to a country where the noncitizen's life or freedom would be threatened.

COUNT II
Violation of the Due Process Clause

56. Petitioner restates and realleges all paragraphs as if fully set forth herein.

57. "[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings." *Trump v. J. G. G.*, 604 U. S. ___, ___ (2025) (per curiam) (slip op., at 3) (internal quotation marks omitted). "Procedural due process

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[4] Didi Martinez and Phil Helsel, NBC News, "Deported Guatemalan Man Back in U.S. After Judge Orders Trump Administration to Return Him," June 4, 2025, https://www.nbcnews.com/news/us-news/deported-guatemalan-man-back-us-judge-orders-trump-administration-retu-rcna211065.

rules are meant to protect" against "the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U. S. 247, 259 (1978). The Court has long held that "no person shall be" removed from the United States "without opportunity, at some time, to be heard." *The Japanese Immigrant Case*, 189 U. S. 86, 101 (1903). Due process requires notice that is "reasonably calculated, under all the circumstances, to apprise interested parties" and that "afford[s] a reasonable time . . . to make [an] appearance." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 314 (1950).

58. Removing Petitioner without affording him notice of the country of intended removal or any opportunity to be heard on a fear claim violates the Due Process Clause.

COUNT III
Violation of Immigration and Nationality Act

59. Petitioner realleges and incorporates by reference the paragraphs above.

60. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the alien's removal from the United States." 533 U.S. at 689, 701.

61. Petitioner's continued detention has become unreasonable because his removal is not reasonably foreseeable. Therefore, his continued detention violates 8 U.S.C. § 1231(a)(6), and he must be immediately released.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Respondents and individuals acting in concert with them from transferring Petitioner out of this judicial district;
3. Order Respondents and individuals acting in concert with them to provide Petitioner with notice of the third country to which Respondents intend to remove him.
4. Order Respondents and individuals acting in concert with them to provide Petitioner with a reasonable opportunity to establish that his life or freedom would be threatened in the third country to which Respondents intend to remove Petitioner.
5. Order Respondents and individuals acting in concert with them to immediately release Petitioner pending the resolution of fear proceedings;

6. Enjoin Respondent and individuals acting in concert with him from re-detaining Petitioner unless such re-detention is authorized by law, including 8 C.F.R. § 241.13;
7. Award Petitioner his costs and reasonable attorneys' fees in this action as provided under the Equal Access to Justice Act, 28 U.S.C. § 2412, or other statute; and
8. Grant such further relief as the Court deems just and proper.

Date: June 27, 2025

Respectfully submitted,

/s/ Ashley L. Kaper

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*Moving for *pro hac vice* admission

Attorneys for Plaintiff

VERIFICATION PURSUANT TO 28 U.S.C. §2242

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner's family the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: June 27, 2025

/s/ Patrick Taurel
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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of June 2025, I electronically filed the foregoing Petition for Writ of Habeas Corpus with the Clerk of the Court using the CM/ECF system, and served a copy of such filing via electronic mail upon:

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/s/ Ashley L. Kaper
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