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12 IN THE UNITED STATES DISTRICT COURT

13 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

14 JOSE CRUZ CORONA RIOS,

15 (A )

16 Petitioner,

17 vs.

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19
20 U.S. Department of Homeland Security;
21 Kristi Noem, Secretary of U.S.
22 Department of Homeland Security, In
23 Her Official Capacity; Pamela Bondi,
24 U.S. Attorney General, In Her Official
25 Capacity; Todd M. Lyons, Acting
26 Director of U.S. Immigration and
27 Enforcement Operation, and Christopher
28 J. Larose, Senior Warden at Otay Mesa
ICE Detention Center.

Respondents.

Case No.: 25-cv-01796-JES-DEB

PETITIONER'S TRAVERSE IN
SUPPORT OF THE PETITION

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I. Facts

As of the date of this filing, Petitioner has been in immigration detention for 356 days, or 11 months and 22 days. He was granted withholding of removal under the Convention Against Torture (“CAT”) by Immigration Judge Paula Dixon on April 21, 2025 (Exhibit 1). He has been in detention for 136 days since the grant of withholding of removal. According to the Respondents, the purpose of the detention was for the government to find a third country for removal.

Petitioner moved to reopen his removal proceedings after the preliminary injunction ordered by the Federal Judge in *D.V.D. v. DHS* was overturned. The ruling effectively gave the government the choice to remove an alien to a third country without notifying him or his counsel. It took away a “meaningful chance” to file fear-based relief against removal to a third country.

Petitioner has exhausted other available legal options in redressing his prolonged immigration detention. He has filed two parole requests with ICE and both have not been granted and two bond requests and both were denied by the Immigration Court for lack of jurisdiction.

During his most recent hearing on September 3, 2025. The DHS Counsel stated to the Immigration Court that the government had not found a third country for Petitioner’s removal. Additionally, the government’s Counsel requested IJ Dixon

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1 to re-issue Petitioner a removal order and re-grant him withholding under C.A.T.

2 But the Counsel also stated that the 90-day removal period would start again.

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4 IJ Dixon has ruled that she would re-grant the C.A.T. and the removal order.
5 The court gave both parties until September 17, 2025 to submit written report on
6 whether the parties would reserve appeal. A new master hearing has been set for
7 October 7, 2025 for IJ to issue her oral decision (Exhibit 2).
8

9 10 11 **II. Argument**

12 i. Petitioner is detained indefinitely without a possibility for removal in the 13 foreseeable future 14

15 Petitioner has been in detention for over 130 days since he was granted relief
16 under C.A.T. The government has yet to find a third country for his removal.
17 During this period, he's had three immigration court hearings and the latest one on
18 September 3, 2025. On each of these three hearings, the Counsels representing the
19 DHS was asked by Immigration Judge Paula Dixon whether the government had
20 found a third country that they would like to remove Petitioner to, and all three
21 times the answers were negative.
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25 As stated previously in the Petition, this is a violation of Petitioner's
26 constitutional rights under the 4th and 5th Amendment of the U.S. Constitution.
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1 These rights are not only reserved for citizens but also aliens that are present in the
2 U.S.
3

4 The Supreme Court held in *Zadvydas v. Davis* that non-citizens cannot be held
5 indefinitely after a final removal order was issued if there was no significant
6 likelihood of removal in the “reasonably foreseeable future”. The DHS has not
7 been able to find a third country for removal for over 130 days. Therefore, it is
8 evident there is not a possibility for removal in the foreseeable future.
9
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12 ii. Other alternatives than detention
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14 ICE has its own policy on alternative to detention (ATD) programs. The highest
15 level being Intensive Supervision Appearance Program (ISAP). It involves GPS
16 Monitoring, in-person check-ins, telephone reporting, home visits, SmartLINK
17 APP, and extended case management services. As of August 2025, there are
18 182,584 noncitizens in the ATD program.¹ According to ICE, to be considered for
19 the ATD, one must be over 18, among others, Immigration Authorities will review
20 a noncitizen’s criminal, immigration records, family and community ties. The daily
21 cost of ATD is \$4.20 compared to \$152 for detention.
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¹ <https://tracreports.org/immigration/quickfacts/#::~:~:text=182%2C584,see%20more%20data>
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1 As stated in the petition, Petitioner has no criminal records. He has three
2 siblings in the U.S. and two are citizens and one is a permanent resident (Exhibit
3 3). He is married to a DACA recipient, and they have a 16-year-old U.S. citizen
4 daughter that he hasn't seen in person for over 13 years (Exhibit 4). Upon release,
5 he will be living with his wife and daughter at their fixed address. His wife makes
6 sufficient income to support him. In addition, he will be receiving a work permit
7 and social security card because of the grant of C.A.T. (Exhibit 1)
8

9 The government can place him on the ATD program, and they can monitor him
10 through the GPS device (ankle GPS monitor), regular check-in and home visits.
11 Once the government finds a third country, they could initiate removal if that
12 becomes necessary. But indefinite detention is a violation of his constitutional
13 rights.
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19 iii. Case laws are clear that Federal Courts have jurisdiction to hear Habeas
20 Corpus claims especially when it is about pro-longed detentions.
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22 Respondents argue that the Federal Courts do not have jurisdiction to hear
23 habeas corpus cases under 8 USC 1252(g) and 8 USC 1252(b)(9).
24

25 8 USC 1252(g) bars judicial review for claims arising from the AG's decision
26 or action... to commence proceedings, adjudicate cases, or execute removal orders
27 against any alien." The U.S. Supreme Court ruled in *INS v. St. Cyr* (2001) that
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1 while the statute was intended to limit judicial review, it didn't eliminate the
2 federal courts' general habeas jurisdiction under 28 USC 2241. The Court found
3 that Congress didn't explicitly state its intent to repeal habeas jurisdiction in the
4 face of the constitutional issue it would create, invoking the canon of constitutional
5 avoidance. This allowed federal courts to continue to hear habeas cases from aliens
6 challenging the unlawfulness of their detention.
7

8
9 The U.S. Supreme Court ruled in *Reno v. American-Arab Anti-Discrimination*
10 *Committee (AADC)* (1999) that the jurisdictional bar under 8 USC 1252(g) only
11 applies to the three specific actions listed in the statute: commencing proceedings,
12 adjudicating cases, and executing removal order.
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14

15 Federal Courts are generally barred from hearing habeas cases that challenge
16 final orders of removal or issues arising from removal proceedings. But the bar on
17 habeas is not absolute. The Supreme Court has clarified that certain challenges to
18 the length of detention – especially when the detention is not directly tied to a final
19 order of removal – falls outside the scope of the “arising from” language of 8 USC
20 1252(b)(9).
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23 Respondents seem to argue that Petitioner is challenging the removal order or
24 other aspects of the removal proceedings, which is not correct. Petitioner is
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1 challenging the prolong detention. Petitioner is also not challenging the decision or
2 action to detain him.² He is challenging the lawfulness of prolonged detention.
3

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5 iv. Petitioner's detention is unlawful.
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7 Petitioner was granted withholding under C.A.T. (Exhibit 1). Although, his
8 removal proceedings were reopened through his own motion, the fact is that to this
9 day the government has not found a third country for his removal. Petitioner did
10 not move for reopening so he could be detained longer, he did so for the sole
11 purpose of preventing removal by the government without proper notice or due
12 process. The Immigration Court has given the government ample time to find a
13 third country, but as of yesterday it has not found one. The continued detention of
14 Petitioner is not constitutional, especially when there are alternatives to detention
15 not only available but also favored because of the significant saving of
16 government's resources.
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21 *Jennings v. Rodriguez* does not apply to this case because the Supreme Court
22 did not rule on the underlying constitutional question whether prolonged detention
23 is constitutional. The Court ruled on the question whether immigration detainees
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² Respondent's Return to Writ of Habeas Corpus, P. 5, para. 3.
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1 have the right to periodic bond hearings while their proceedings are pending in
2 court.
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5 **III. CONCLUSION**
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7 Therefore, the Court should grant the Petition and order Petitioner's release
8 from detention and allow the government the choice to place Petitioner on a
9 supervision program that it deems appropriate.
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12 Dated this 4nd day of September 2025.
13

14 S/ Curtis Lee Morrison
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16 Attorney for Petitioner

17 s/ Jimmy Namgyal
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