IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

Tinatin KURDOBADZE, Petitioner, v. Franciso VENEGAS, Warden of El Valle Detention Center; Pam BONDI, U.S. Attorney General; Kristi NOEM, Secretary of the Department of Homeland Security; Respondents.	Case No. 1:25-CV-00157 **MOTION FOR A PRELIMINARY INJUNCTION AND SUPPORTING MEMORANDUM**

NOTICE OF MOTION

Tinatin Kurdobadze ("Petitioner"), pursuant to Rule 65 of the Federal Rules of Civil Procedure, moves this Court for an order enjoining Respondents from continuing to detain Petitioner. Petitioner seeks immediate release from custody or release under supervision. Petitioner additionally seeks to enjoin Respondents from removing Petitioner from the U.S. to any third country to which she does not have a removal order without first providing her with constitutionally-compliant procedures. Respondents should also not transfer the Petitioner outside this District, where she is presently located. Such an order would maintain the status quo while habeas jurisdiction is litigated, and would also ensure that Petitioner remains close to legal counsel.

The reasons for this Motion are in the accompanying Memorandum of Points and Authorities. As this Motion shows, Petitioner warrants a preliminary injunction because she is eligible for release from detention.

Petitioner has submitted a habeas petition on the same grounds, and is also filing this preliminary injunction motion to prevent irreparable injury before a hearing on her habeas petition may be held.

WHEREFORE, Petitioner prays that this Court grant her request for a preliminary injunction enjoining Respondents from continuing to detain her, or order her released under supervision, and enjoining Respondents from removing her to any third country without first providing him with constitutionally compliant procedures.

Dated: October 20, 2025

Respectfully Submitted

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SUMMARY OF THE ARGUMENT

This Court should grant Petitioner's motion for a preliminary injunction. She is likely to succeed on the merits of her habeas petition because the process the government is using to attempt to remove Petitioner violates provisions of the Immigration and Nationality Act and its implementing regulations, and her due process rights under *Zadvydas*. Petitioner has been detained for over sixteen months and during that time the government has attempted to get four different countries to accept her. Two of these countries outright denied the government's requests, and two countries have not responded for over six months. Indeed, ICE has attempted to enlist the State Department to help find a Third Country in which to remove Petitioner. Her detention is thus unreasonably prolonged, and her removal is not reasonably foreseeable.

Moreover, Petitioner will be irreparably harmed in the absence of a preliminary injunction. As described above, in the absence of a preliminary injunction, Petitioner will continue to be unlawfully detained by Respondents. Further, Petitioner will suffer irreparable harm if she is removed to a third country without first being provided with constitutionally-compliant procedures to ensure that her right to apply for fear-based relief is protected. For the same reason, equities and the public interest also weigh in favor of Petitioner. This Court should thus grant Petitioner's motion for a preliminary injunction.

STATEMENT OF THE ISSUES

1. Petitioner is likely to succeed on the merits of her habeas petition because the government's prolonged detention of Petitioner violates the Immigration and Nationality Act, implementing regulations, and her right to due process.

2. Petitioner faces irreparable harm without a preliminary injunction because the government's detention of her is in violation of the law, and removal to a Third Country would possibly subject her to harm or torture.
3. The equities and public interest weigh in favor of Petitioner because her possible removal to a Third Country would possibly subject her to persecution or to torture.

STATEMENT OF FACTS

Petitioner is a native of Georgia and a citizen of Georgia and Poland. She has no criminal history. A File at 69. On June 7, 2024, Petitioner turned herself in to immigration authorities at the southern border and asked for asylum. *Id.* at 19. Petitioner has been detained since that time, for over sixteen months.

On June 9, 2024, the Department of Homeland Security ("DHS") found Petitioner inadmissible under 8 U.S.C. § 1182, as a noncitizen not in possession of a valid immigration document at the time of admission. She claimed fear of returning home to Georgia, and was thus given an interview to determine whether her fear was credible. *Id.* at 21.

During that interview, DHS found that Petitioner had credible fear of persecution, and was a member of a particular social group acknowledged under the immigration laws. Specifically, she was a lesbian, in the sexual minority of Georgia. *Id.* at 24. She had been physically harmed between five and ten times in Georgia and had been threatened multiple times based on her sexual minority status. *Id.* at 35. During one of these altercations, she had been stabbed with a knife in both of her legs. *Id.* DHS' findings were thus referred to an Immigration Judge.

On June 16, 2024, an Immigration Judge in Aurora, Colorado, found Petitioner inadmissible under 8 U.S.C. § 1182, as a noncitizen not in possession of a valid immigration document at the time of admission. *Id.* at 1-4. He thus found her removable to Georgia, or in the alternative to Poland. However, the Immigration Judge explained that Petitioner would have been

eligible for asylum if not for Presidential Proclamation 10773, which restricts asylum eligibility for those entering the country through the southern border.[1] Because asylum was not available, the Immigration Judge granted Petitioner withholding of removal, which bars her removal to Georgia.

On July 24, 2024, Maia Shanidze, a relative of Petitioner's from Georgia who was then residing in New York, submitted to DHS an affidavit and supporting documents showing she would sponsor Petitioner in the United States. She provided DHS with her permanent address, stated she was financially capable of supporting Petitioner, and promised to ensure Petitioner would attend her immigration proceedings. *Id.* at 10.

On August 13, 2024, ICE sent Petitioner a letter informing her she would not be released from custody for the sole reason that her sponsor did not meet ICE's policy standards. *Id.* at 7-8.

On February 3, 2025, over six months later, ICE sent a letter to the Consulate General of Poland, asking them to take Petitioner because she could not be returned to Georgia based on the grant of withholding of removal. *Id.* at 51.

On March 4, 2025, the Polish government refused to accept Petitioner. Government's Habeas Response at 14. ICE thus requested that Costa Rica, the Dominican Republic or Panama accept Petitioner. *Id.* That same day, Costa Rica also refused to accept Petitioner. Government's Habeas Response at 4.

On April 25, 2025, ICE sent Petitioner a letter informing her it intended to continue her detention based on "The Significant Likelihood of Removal in the Reasonably Foreseeable Future." A File at 86-87.

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[1] Though not at issue in these proceedings because this is not a challenge to Petitioner's removal order, there is ongoing litigation related to the legality of PP 10773. *See, e.g., Las Am's. Immigrant Advocacy Ctr. v. U.S. Dep't of Homeland Sec.,* No. 24-1702 (D. D.C. Jul 28, 2025).

On August 22, 2025, almost six months after the Central American removal requests, Enforcement and Removal Operations (a branch of DHS), obviously concerned about the length of Petitioner's detention, inquired about ICE's progress on finding a removal country for Petitioner. *Id.* On August 27, 2025, DHS attempted to enlist the U.S. State Department to assist with finding a Third Country in which to remove Petitioner. *Id.*

To this date, over sixteen months since Petitioner's initial detention, DHS has failed to locate a Third Country in which to remove Petitioner. Petitioner is currently detained at the El Valle Detention Facility in Raymondville, Texas. Government Habeas Response at 1.

LEGAL FRAMEWORK

A. Preliminary Injunction

Petitioner is entitled to preliminary injunctive relief if she establishes that she is "likely to succeed on the merits, . . . likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [her] favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

B. Removal Proceedings

When the Government wants to remove an individual, the normal path is through removal proceedings, requiring an evidentiary hearing before an Immigration Judge. 8 U.S.C. § 1229a. Removal proceedings determine not only whether an individual may be removed from the United States but also to where she may be removed. In the first instance, the noncitizen is entitled to select a country of removal. *Id.*; 8 U.S.C. § 1231(b)(2)(A); 8 C.F.R. § 1240.10(f). If the noncitizen does not do so, the Immigration Judge will designate the country of removal and may also designate alternative countries. 8 C.F.R. § 1240.10(f).

Meanwhile, the noncitizen is also entitled to seek various protections, including asylum, and withholding of removal. 8 C.F.R. § 1240.11(c)(1). Some of these protections are discretionary.

Others are mandatory, meaning that protection must be given if the conditions are met. Withholding of removal is a mandatory form of protection preventing deportation to the country or countries where an Immigration Judge finds that the individual is more than likely to be persecuted. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 208.16; *Moncrieffe v. Holder*, 569 U.S. 184, 187 n.1 (2013) ("[T]he Attorney General has no discretion to deny relief to a noncitizen who establishes his eligibility [for withholding of removal or CAT protections].").

If the noncitizen demonstrates a reasonable fear of persecution or torture, the noncitizen is placed in "withholding-only proceedings" before an IJ where they can only seek withholding of removal protection under the Convention against Torture ("CAT"). 8 C.F.R. §§ 208.31(b), (e); *see also* 8 U.S.C. § 1231(a)(5) (providing that an noncitizen subject to reinstatement "is not eligible and may not apply for any relief under [the Immigration and Nationality Act ("INA")]"); 8 C.F.R. § 1208.2(c)(3)(i) ("The scope of review in [withholding-only] proceedings ... shall be limited to a determination of whether the noncitizen is eligible for withholding or deferral of removal.").

Withholding of removal only affects *where* the noncitizen may be removed, rather than *whether* the noncitizen may be removed; thus, even if an noncitizen prevails on her withholding claim the removal order remains enforceable, albeit not executable to the specific country as to which the noncitizen has demonstrated a likelihood of persecution or death. 8 U.S.C. § 1231(b)(2)(E); 8 C.F.R. § 1208.16(f); *Johnson v. Guzman Chavez*, 594 U.S. 523, 536 (2021); *Lanza v. Ashcroft*, 389 F.3d 917, 933 (9th Cir. 2004) (stating that a grant of withholding "only prohibits removal of the petitioner to the country of risk, but does not prohibit removal to a non-risk country").

C. Third-Country Removals

Because the removal proceedings happen on one track, while withholding proceedings happen on another track, a situation may arise where the government has a removal order but no country that an Immigration Judge has authorized for that removal.

In certain circumstances, where the government may not remove a noncitizen to any country covered by that noncitizen's order of removal, the government may still remove the noncitizen to any "country whose government will accept the noncitizen into that country." 8 U.S.C. § 1231(b)(2)(E)(vii). These are called "third-country removals." As relevant here, a specific carve-out prohibits deportation to countries in which the noncitizen would face persecution or torture:

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

8 U.S.C. § 1231(b)(3)(A). Similarly, a noncitizen may not be removed to any country where they would be tortured. 28 C.F.R. § 200.1; 8 C.F.R. §§ 208.16–18, 1208.16–18. In other words, third-country removals are subject to the same mandatory protections that exist in removal or withholding-only proceedings. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025).

In addition, there are specific regulations pertaining to noncitizens whose removal to a particular country has been withheld. *See* 8 C.F.R. § 1208.16(b). To address any concerns that a noncitizen could be removed to a third country that would simply, in turn, send the citizen back to her home country, a noncitizen with an order withholding removal to a particular country must be given notice of the country to which the government intends to remove her and an opportunity to apply for protection from removal to that country. 28 C.F.R. § 200.1; *Dep't of Homeland Sec.*

v. D.V.D., 145 S. Ct. 2153, 2154 (2025) (Sotomayor, J., dissenting) (describing the provisions of the Convention Against Torture and its limits on third country removals).

D. Length of Detention

The length of time that a noncitizen under a removal order may be held in detention is governed by statutes, regulations, and case law. After a removal order is entered, the government must detain the noncitizen for 90 days, during which the government must attempt to remove the noncitizen. 8 U.S.C. § 1231(a)(l); 8 C.F.R. § 241.4(g)(l)(ii). This 90-day removal period runs from the latest of the following: the date the removal order becomes final, the date on which a court-ordered stay of removal expires, or the date the noncitizen is released from detention. 8 U.S.C. § 1231(a)(l)(B); 8 C.F.R. § 241.4(g)(l)(i). Detention may be extended beyond the 90-day removal period if the noncitizen fails or refuses to apply in good faith for travel documents as directed by ICE. 8 C.F.R. § 241.4(g)(l)(i). Detention may also be extended if the noncitizen is inadmissible under 8 U.S.C. § 1182, if the noncitizen has committed certain crimes, and if the government determines that the noncitizen poses a risk to the community or is a flight risk. *See* 8 U.S.C. § 123 l(a)(6). But the Supreme Court has held that a noncitizen may not, consistent with the Due Process Clause, be detained indefinitely. *Zadvydas v. Davis,* 533 U.S. 678, 697 (2001). Instead, due process requires that a noncitizen be detained for no longer than the time "reasonably necessary to secure removal." *Id.* at 699. Therefore, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statutes." *Id.* at 699-700. The Court also held that 180 days is a "presumptively reasonable" period for removing a noncitizen. *Id.* at 701. But if there is no reasonably likelihood that the noncitizen will be removed in the foreseeable future, the government may not continue to detain her. *Id.*

ARGUMENT

A. Petitioner is likely to succeed on the merits of her claim as her prolonged detention violates the Immigration and Nationality Act, its implementing regulations, and her right to due process

Here, Petitioner is likely to succeed on the merits because the process the government is using to attempt to remove Petitioner violates her Fifth Amendment due process rights, the provisions of the Immigration and Nationality Act and its implementing regulations, and her due process rights under *Zadvydas.*

Petitioner has been detained for over sixteen months. Her removal order was issued on June 16, 2024. The government has thus failed to remove Petitioner during the statutory and regulatory 90-day period. 8 U.S.C. § 1231(a)(l); 8 C.F.R. § 241.4(g)(l)(ii) (after a removal order is entered, the government must detain the noncitizen for 90 days, during which the government must attempt to remove the noncitizen).

Though the Supreme Court in *Zadvydas v. Davis,* 533 U.S. 678, 697 (2001) has held that government violations of these laws and regulations may be excused in certain cases, such as where a noncitizen is inadmissible under 8 U.S.C. § 1182, it specifically stated that due process requires that a noncitizen be detained for no longer than the time "reasonably necessary to secure removal." *Id.* at 699. Therefore, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statutes." *Id.* at 699-700. The Court also held that 180 days is a "presumptively reasonable" period for removing a noncitizen. *Id.* at 701. Thus, in addition to violating the applicable laws and regulations, the government has also violated Petitioner's right to due process.

To the extent that the government contends that it can detain Petitioner indefinitely, it is incorrect. Government's Habeas Response at 6-9. In *Zadvydas,* the Supreme Court specifically rejected the argument that the government could detain a removable noncitizen indefinitely. *Zadvydas,* 533 U.S. at 682. The Supreme Court held that due process prohibits the government from detaining an individual indefinitely after the 90-day removal period has expired. *Id. a*t 689 (specifically stating that§ 123 l(a)(6) "does not permit indefinite detention"). Instead, detention is limited to the period reasonably necessary to bring about the removal. *Id.* Therefore, "once removal is no longer reasonably foreseeable, continued detention is no longer authorized." *Id.* at 699.

Here it is apparent from the timeline that removal is no longer reasonably foreseeable and continued detention is no longer authorized. Petitioner was first detained on June 9, 2024, and a removal order was issued on June 16, 2024.

On August 13, 2024, over two months later, ICE sent Petitioner a letter informing her she would not be released from custody for the sole reason that her sponsor did not meet ICE's policy standards.

On February 3, 2025, over six months after that, ICE sent a letter to the Consulate General of Poland, asking them to take Petitioner because she could not be returned to Georgia based on the grant of withholding of removal.

On March 4, 2025, the Polish government informed ICE that it would not accept Petitioner. Government's Habeas Response at 14. ICE thus requested that Costa Rica, the Dominican Republic or Panama accept Petitioner. That same day, Costa Rica also refused to accept Petitioner. Government's Habeas Response at 4.

On April 25, 2025, ICE sent Petitioner a letter informing her that it intended to continue her detention based on "The Significant Likelihood of Removal in the Reasonably Foreseeable Future."

On August 22, 2025, almost six months after the Central American removal requests, Enforcement and Removal Operations (a branch of DHS), obviously concerned about the length of Petitioner's detention, inquired about ICE's progress on finding a removal country. On August 27, 2025, DHS attempted to enlist the U.S. State Department to assist with finding a Third Country in which to remove Petitioner.

To this date, over sixteen months since Petitioner's initial detention, DHS has failed to locate a Third Country in which to remove Petitioner. Petitioner's removal is thus not reasonably foreseeable. Indeed, ICE has already had two countries decline to take Petitioner, and has apparently received no response, for over seven months, from two other countries. Moreover, ICE has admitted that its attempt to find a Third Country has been so unsuccessful that it has had to enlist the State Department for assistance. Thus, Petitioner's removal is not reasonably foreseeable and her continued detention is no longer authorized. *See Herrera v. Tate*, No. 25-3364 (S.D. Tex. Sep 26, 2025) (removal not reasonably foreseeable where government has attempted and failed to find a Third Country for removal).

Further, any efforts to remove Petitioner to a third country would likely be delayed by proceedings contesting her removal to the third country finally identified. *See Johnson v. Guzman Chavez,* 594 U.S. 523, 528, 530-31 (2021); *Zavvar,* 2025 WL 2592543, at *8 ("The fact that Zavvar likely will have the opportunity· to seek further relief from the Immigration Court, and then potentially file appeals from any adverse rulings, further demonstrates that removal is not likely in the reasonably foreseeable future."); *Munoz-Saucedo v. Pittman,* No. 25-2258.

(CPO), 2025 WL 1750346, at *7 (D.N.J. June 24, 2025) (finding relevant to the reasonably foreseeable analysis the fact that "even if ICE identified a third country, Petitioner ... would be entitled 'to seek fear-based relief from removal to that country,' which would require 'additional, lengthy proceedings'").

The government may not detain Petitioner for an indefinite period of time while it tries to effect that removal when the circumstances are such that her removal is not reasonably likely in the foreseeable future. Such an action violates the Due Process Clause, as explained in *Zadvydas.* Petitioner is thus likely to succeed on the merits.

B. Petitioner will suffer irreparable harm in the absence of a preliminary injunction

As described above, in the absence of a preliminary injunction, Petitioner will continue to be unlawfully detained by Respondents. Petitioner has now been in custody for over sixteen months. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detainees in civil ICE custody are held in "prison-like conditions" which have real consequences for their lives. *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). Indeed, the government itself has documented alarmingly poor conditions in ICE detention centers. [2]

Further, Petitioner will suffer irreparable harm if she is removed to a third country without first being provided with constitutionally-compliant procedures to ensure that her right to apply

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[2] *See, e.g.*, DHS, Office of Inspector General ("OIG"), Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (violations of health and safety standards; staffing shortages affecting suicide watch, and detainees held in unauthorized restraints, without being allowed time outside their cell,). U.S. Dep't of Homeland Security Office of Inspector General, OIG-24-23, Results of an Unannounced Inspection of ICE's Golden State Annex in McFarland, California (Sept. 24, 2024), available at https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf.

for fear-based relief is protected. Individuals removed to third countries under DHS's policy have reported that they are now stuck in countries where they do not have government support, do not speak the language, and have no network.[3] Thus, preliminary injunctive relief is necessary to prevent Petitioner from suffering irreparable harm by remaining in unlawful and unjust detention, and by being summarily removed to any third country where he may face persecution or torture. [4]

C. The balance of equities and public interest favor Petitioner

As for the third and fourth factors (balance of equities and public interest), those merge in cases against the Government. *Nken*, 556 U.S. at 435. As the Supreme Court stated, and as was echoed by the Fifth Circuit, "there is a public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm." *Id.* at 436.; *W.M.M. v. Trump*, 25-10534 (5th Cir. Sep 02, 2025). Here, if the government were to remove Petitioner to a Third Country before she has had a chance to object, it would possibly subject her to persecution or torture.

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[3] NPR, "Asylum seekers deported by the U.S. are stuck in Panama unable to return home (May 5, 2025), available at: https://www.npr.org/2025/05/05/nx-s1-5369572/asylum-seekers-deported-by-the-u-s-are-stuck-in-panama-unable-to-return-home.

[4] Petitioner notes that she is likely considered a class member, as to her Third Country claims, in *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025). That case involves a certified national class action challenging DHS' policy of deporting noncitizens to countries never previously raised as possible countries of removal without any notice or opportunity to contest removal based on a fear of persecution or torture. However, the preliminary injunction entered by the District Court in that case was stayed by the Supreme Court on June 23, 2025. Because that preliminary injunction is stayed, this Court should still consider Petitioner's Third Country claims.

CONCLUSION

For these reasons, the Court should grant Petitioner's Motion for a Preliminary Injunction.

Dated: October 20, 2025

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Respectfully submitted,

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