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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Khikmatdzhon Iakubov,  
  
Petitioner,  
  
v.  
  
Fred Figueroa, *et al.*,  
  
Respondents.

Case No. 2:25-cv-03187-KML-JZB

**PETITIONER'S SUPPLEMENTAL  
REPLY IN SUPPORT OF MOTION  
FOR TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY  
INJUNCTION**

**ARGUMENT**

**I. Respondents have put forward no evidence to show Mr. Iakubov's removal is significantly likely in the reasonably foreseeable future.**

Respondents concede (Dkt. 18) they are no closer to removing Mr. Iakubov to Hungary, Kyrgyzstan, or Uzbekistan than they were on April 14, when they sent requests to those countries. This alone warrants this Court's granting his release under *Zadvydas v. Davis*, 533 U.S. 678 (2001). It is worth noting that if Respondents did attempt to remove Mr. Iakubov to Kyrgyzstan or Uzbekistan, he would seek to reopen his immigration case

1 to request withholding of removal to those countries based on his fear of persecution for  
 2 his LGBT identity. *See, e.g., Belkaniya v. Garland*, 2023 WL 5273784 (2d Cir. Aug. 16,  
 3 2023), at \*2, n. 2 (remanding gay Uzbeki's case to the BIA, citing U.S. State Dept. Human  
 4 Rights Report showing prosecutions of gays); *see also* Syinat Sultanalieva, "Kyrgyzstan's  
 5 New Anti-Gay Law Is Even Worse than Russia's";<sup>1</sup> Human Rights Watch, "'They Said We  
 6 Deserved This': Police Violence Against Gay and Bisexual Men in Kyrgyzstan."<sup>2</sup> In short,  
 7 any likelihood of his removal to those countries in the foreseeable future is significantly  
 8 diminished by the fact that an immigration court would probably find it more likely than  
 9 not that he would be persecuted or tortured in those countries.

## 12 **II. Respondents concede they will not offer Mr. Iakubov due process.**

13 Although Respondents told this Court that they "will provide Petitioner with due  
 14 process" before removing him to a third country (Dkt. 10 at 1), they now admit they will  
 15 merely follow DHS's March Guidance, which has already been held to violate due process.  
 16 *D.V.D. v. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 389-90 (D. Mass. 2025) (March  
 17 Guidance "provides no process whatsoever to individuals whom DHS plans to remove to  
 18 a country from which the United States has received blanket diplomatic assurances").  
 19

20 Respondents claim that "Petitioner had the opportunity to raise CAT claims in his  
 21 immigration proceedings ... and move to reopen his proceeding as new fears have arisen."  
 22

23  
 24  
 25 <sup>1</sup> <https://www.opensocietyfoundations.org/voices/kyrgyzstan-s-new-anti-gay-law-even-worse-russia-s>

26 <sup>2</sup> <https://www.hrw.org/report/2014/01/28/they-said-we-deserved/police-violence-against-gay-and-bisexual-men-kyrgyzstan>  
 27 <https://www.hrw.org/report/2014/01/28/they-said-we-deserved/police-violence-against-gay-and-bisexual-men-kyrgyzstan>  
 28

1 Dkt. 18 at 3. But immigration courts do not adjudicate claims in the abstract, without a  
2 country of removal first being designated. *D.V.D.*, 778 F. Supp. 3d at 371, n. 17. And  
3 “[l]isting all the countries in the world as to which an individual might have a reasonable  
4 fear is also impractical: doing so would potentially require [] a person with a same-sex  
5 sexual orientation,” like Mr. Iakubov, “to list, at least, all 64 countries where such an  
6 orientation is illegal such that the individual fears torture.” *Id.* at 388.  
7

8 Finally, Respondents contend that “the district court may not question the  
9 Government’s determination that a potential recipient country is not likely to torture a  
10 detainee.” Dkt. 18 at 2. But no one is asking the Court to do that: Mr. Iakubov only seeks  
11 adequate notice so that he can ask an immigration judge to make that determination. *See*  
12 8 C.F.R. § 1208.2(b) (jurisdiction of immigration court over asylum applications, review  
13 of reasonable fear determinations, and credible fear determinations).  
14  
15

### 16 CONCLUSION

17  
18 The Court should enjoin Respondents from removing Mr. Iakubov without due  
19 process and should require his immediate release pending disposition of his habeas case.  
20

21 Dated: September 22, 2025

Respectfully submitted,

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**Certificate of Service**

I hereby certify that the foregoing was filed via the Court's CM/ECF system this 22nd day of September, 2025, which sent notice of such filing to all parties receiving electronic notice.

/s/ James D. Jenkins  
Attorney for Petitioner