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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 DESMOND THIERRY NGU ANOMA,

13 v.
14 Petitioner,

15 WARDEN OF THE OTAY MESA
16 DETENTION FACILITY, Current or
17 Acting Field Office Director, San Diego
18 Field Office, United States Immigration
19 and Customs Enforcement; CURRENT
20 OR ACTING DIRECTOR, United States
Immigration and Customs Enforcement;
CURRENT OR ACTING SECRETARY,
United States Department of Homeland
Security; CURRENT OR ACTING
UNITED STATES ATTORNEY
GENERAL,

21 Respondents.

22 Case No.: 25-cv-02505-BAS-BLM

23 **RETURN IN OPPOSITION
24 TO PETITION FOR WRIT
25 OF HABEAS CORPUS AND
26 INJUNCTION**

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1 INTRODUCTION

2 Petitioner requests that this Court order Immigration and Customs Enforcement
3 (ICE) to release him from custody because, he alleges, his detention is unlawful and
4 prolonged. He was ordered removed from the United States on August 20, 2025, and
5 was granted withholding of removal to Cameroon that same day. Petitioner is subject
6 to a final, executable order of removal, which means that he has no right to remain in
7 the United States. Although he may not be repatriated to Cameroon, he may be resettled
8 in a third country. Under 8 U.S.C. § 1231(a), ICE has authority to detain a noncitizen
9 for 90 days to execute removal, and the Supreme Court has held that detention is
10 presumptively reasonable for six months. Here, the presumptively reasonable six-month
11 removal period for ICE to effect removal has not ended. ICE is actively working to
12 effect Petitioner's removal to a third country. Petitioner has not provided good reason
13 to believe that there is no significant likelihood of his removal in the reasonably
14 foreseeable future.

15 Further, to the extent Petitioner asserts claims regarding conditions of his
16 confinement and the release of his medical records, ECF No. 1 at ¶¶ 14-15, 22-24, the
17 Court lacks jurisdiction over such claims because they do not challenge the lawfulness
18 of his custody under 28 U.S.C. § 2241. In any event, Petitioner's request for injunctive
19 relief seeking release of Petitioner's medical records is moot, as ICE and the Otay Mesa
20 Detention Center/CoreCivic have released Petitioner's complete medical file and/or
21 medical records to Petitioner's counsel. As such, the Court should deny the petition and
22 request for injunctive relief.

22 FACTUAL BACKGROUND

23 Petitioner is a native and citizen of Cameroon. On or about December 2, 2024,
24 Petitioner entered the United States between ports of entry at or near Tecate, California.
25 Exhibit 1.¹ He was not then in possession of any valid entry documents. *Id.* Customs
26 and Border Protection (CBP) determined that Petitioner was inadmissible under 8
27

28 ¹ The attached exhibits are true copies, with redactions of private information, of
documents obtained from ICE counsel.

1 U.S.C. § 1182(a)(7)(A)(i)(I) and placed him in expedited removal proceedings under 8
2 U.S.C. § 1225(b)(1). Exhibit 2. On December 3, 2024, Petitioner was detained by CBP
3 and subsequently transferred to ICE custody and detained at the Otay Mesa Detention
4 Center. Exhibit 1; *see also* Declaration of David Townsend (Decl. Townsend), at ¶ 4.

5 Pursuant to 8 U.S.C. § 1225(b)(1)(B), Petitioner was interviewed by a U.S.
6 Citizenship and Immigration Services asylum officer to determine whether he had a
7 credible fear of persecution or torture if removed to Cameroon. Decl. Townsend, at ¶ 5.
8 The interview resulted in a positive determination and on January 28, 2025, the
9 Department of Homeland Security (DHS) issued Petitioner a Notice to Appear (NTA),
10 charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C.
11 § 1182(a)(7)(A)(i)(I). Exhibit 3; Decl. Townsend, at ¶¶ 5-6. On March 4, 2025, the NTA
12 was filed with the immigration court, thereby commencing removal proceedings under
13 8 U.S.C. § 1229a.

14 Petitioner remained detained in ICE custody under 8 U.S.C. § 1225(b)(1)(B)(ii),
15 as his detention was mandatory, *see Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019).
16 Decl. Townsend, at ¶ 8. On March 7, 2025, a custody redetermination hearing was held
17 and the immigration judge (IJ) granted Petitioner's request to withdraw bond. Exhibit
18 4. On June 20, 2025, Petitioner appeared for a further custody redetermination hearing
19 before an IJ. Exhibit 5. The IJ again granted Petitioner's request to withdraw bond. *Id.*

20 On August 20, 2025, Petitioner appeared for an individual hearing before an IJ.
21 Exhibit 6. The IJ found Petitioner inadmissible and removable under 8 U.S.C. §
22 1182(a)(6)(A)(i) and 8 U.S.C. § 1182(a)(7)(A)(i)(I), ordered that Petitioner be removed
23 from the United States, denied his application for asylum, and granted his application
24 for withholding of removal under 8 U.S.C. § 1231(b)(3).² *Id.*

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27 ² 8 U.S.C. § 1231(b)(3) provides, with certain exceptions, that "the Attorney
28 General may not remove an alien to a country if the Attorney General decides that 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).

1 ICE is actively working to locate a third country of resettlement and to effect
 2 Petitioner's removal to a third country. Decl. Townsend, at ¶ 10. On September 25,
 3 2025, ICE submitted a request for a third country removal to ICE's Removal and
 4 International Operations (RIO). *Id.* ICE is currently exploring third-country removal
 5 options but has not yet identified particular countries. *Id.*

6 ARGUMENT

7 A. Petitioner is Lawfully Detained

8 Authority to detain noncitizens who are subject to a final order of removal is
 9 governed by 8 U.S.C. § 1231(a). *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall
 10 detain" the alien during the 90-day removal period); *see also* *Zadvydas v. Davis*, 533
 11 U.S. 678, 683 (2001).

12 Petitioner is subject to a final, executable order of removal, which means that he
 13 has no right to remain in the United States. He has a temporary right not to be
 14 repatriated to Cameroon, but he has no right not to be resettled in a third country. ICE
 15 has long-standing authority to remove noncitizens and resettle them in third countries
 16 where removal to the country designated in the final order is "impracticable,
 17 inadvisable, or impossible." 8 U.S.C. § 1231(b)(2)(E)(vii); *see also* 8 U.S.C. § 1231(b)
 18 (outlining framework for designation). Accordingly, noncitizens like Petitioner, who
 19 have received protection against removal to the designated country (either withholding
 20 of removal under 8 U.S.C. § 1231(b)(3) or CAT protection), may be removed and
 21 resettled in third countries.

22 Section 1231(b)(2)(E) provides that the Secretary of Homeland Security shall
 23 remove the noncitizen to any of the following countries:

- 24 (i) The country from which the alien was admitted to the United
 States.
- 25 (ii) The country in which is located the foreign port from which the
 alien left for the United States or for a foreign territory contiguous to the
 United States.
- 26 (iii) A country in which the alien resided before the alien entered
 the country from which the alien entered the United States.
- 27 (iv) The country in which the alien was born.

(v) The country that had sovereignty over the alien's birthplace when the alien was born.

(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

| *Id.*

Accordingly, if the Secretary of Homeland Security is unable to remove a noncitizen to a country of designation or an alternative country in subparagraph (D), the Secretary may, in her discretion, remove the noncitizen to any country listed in subparagraphs (E)(i) through (E)(vi).

An alien ordered removed must be detained for 90 days pending the government's efforts to secure the alien's removal through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the alien during the 90-day removal period); *see also* *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001). The statute "limits an alien's post-removal detention to a period reasonably necessary to bring about the alien's removal from the United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that a six-month period of post-removal detention constitutes a "presumptively reasonable period of detention." *Id.* at 683; *see also* *Clark v. Martinez*, 543 U.S. 371, 377 (2005) ("[T]he presumptive period during which the detention of an alien is reasonably necessary to effectuate his removal is six months..."); *Lema v. INS*, 341 F.3d 853, 856 (9th Cir. 2003).

Release is not mandated after the expiration of the six-month period unless “there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701; *see also Clark*, 543 U.S. at 377. The Supreme Court limited the statute, allowing post-removal detention “to a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. “[O]nce removal is no longer foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699. Ultimately, “an alien can be held in confinement until it has been determined that

1 there is no significant likelihood of removal in the reasonably foreseeable future
2 [(“SLRRFF”)].” *Id.*

3 The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the alien to
4 show, after a detention period of six months, that there is ‘good reason to believe that
5 there is no significant likelihood of removal in the reasonably foreseeable future.’”
6 *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at
7 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003). The alien must make such
8 a showing to shift the burden to the government.

9 [O]nce the alien provides good reason to believe that there is no significant
10 likelihood of removal in the reasonably foreseeable future, the
11 Government must respond with evidence sufficient to rebut the showing.
12 And for the detention to remain reasonable, as the period of prior post-
removal confinement grows, what counts as the “reasonably foreseeable
future” conversely would have to shrink.

13 *Zadvydas*, 533 U.S. at 701.

14 Petitioner’s case is premature as the six-month presumptively reasonable removal
15 period will not end until approximately February 20, 2026. *See Ali v. Barlow*, 446 F.
16 Supp. 2d 604, 609-610 (E.D. Va. 2006) (finding habeas petition was unripe for review
17 where *Zadvydas* six-month period had not expired; dismissing petition without
18 prejudice); *Gonzales v. Naranjo*, No. EDCV 12-1392 DSF (FFM), 2012 WL 6111358
19 (C.D. Cal. 2012) (same); *Waraich v. Ashcroft*, No. CVF051036, 2005 WL 2671406, at
20 *1 (E.D. Cal. Oct. 19, 2005) (same). *But see Trinh v. Homan*, 466 F. Supp. 3d 1077,
21 1093 (C.D. Cal. 2020) (“At no point did the *Zadvydas* Court preclude a noncitizen from
22 challenging their detention before the end of the presumptively reasonable six-month
23 period.”).

24 Even if the removal period had extended beyond six months, Petitioner cannot
25 show that there is no significant likelihood of removal in the reasonably foreseeable
26 future. ICE is in the process of locating a third country pursuant to 8 U.S.C. §
27 1231(b)(2)(E), so it is premature for Petitioner to seek administrative or judicial review
28 of that process. If ICE obtains travel documents for resettlement in a third country,

1 Petitioner will have an opportunity to seek to reopen his removal proceedings. *See* 8
2 U.S.C. § 1229a(c)(7) (Motions to reopen); 8 C.F.R. § 1003.23(b) (“Reopening or
3 reconsideration before the immigration court”). Movants can also seek an emergency
4 stay of removal. *See generally* 8 C.F.R. §§ 1003.2(f), 1003.23(b)(v). Judicial review of
5 that process will be exclusive to the Ninth Circuit. *See* 8 U.S.C. § 1252(b)(6), (9). ICE
6 is actively working to effect Petitioner’s removal to a third country and his continued
7 detention is not unconstitutionally indefinite. On this record, Petitioner could not sustain
8 his burden, and it would be premature to reach that conclusion before permitting ICE
9 an opportunity to complete its diligent efforts to effect Petitioner’s removal.

10 To the extent Petitioner is challenging ICE’s decision to detain him for the
11 purpose of removal, such a challenge is precluded by statute. *See* 8 U.S.C. § 1252(g)
12 (“Except as provided in this section and *notwithstanding any other provision of law*
13 (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas*
14 *corpus provision*, and sections 1361 and 1651 of such title, no court shall have
15 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
16 decision or action by the Attorney General to commence proceedings, adjudicate cases,
17 or *execute removal orders* against any alien under this chapter.”) (emphasis added); *see*
18 *also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There
19 was good reason for Congress to focus special attention upon, and make special
20 provision for, judicial review of the Attorney General’s discrete acts of “commenc[ing]
21 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent
22 the initiation or prosecution of various stages in the deportation process.”); *Limpin v.*
23 *United States*, 828 Fed. App’x 429 (9th Cir. 2020) (holding district court properly
24 dismissed under 8 U.S.C. § 1252(g) “because claims stemming from the decision to
25 arrest and detain an alien at the commencement of removal proceedings are not within
26 any court’s jurisdiction”).

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1 **B. Conditions of Confinement Allegations are Not Proper Habeas Claims**

2 To the extent Petitioner asserts claims regarding conditions of his confinement
3 and the release of his medical records, ECF No. 1 at ¶¶ 14-15, 22-24, the Court lacks
4 jurisdiction over such claims because they do not challenge the lawfulness of his
5 custody. An individual may seek habeas relief under 28 U.S.C. § 2241 if he is “in
6 custody” under federal authority “in violation of the Constitution or laws or treaties of
7 the United States.” 28 U.S.C. § 2241(c). But habeas relief is available to challenge only
8 the legality or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th
9 Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep’t of Homeland*
10 *Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus
11 historically “provide[s] a means of contesting the lawfulness of restraint and securing
12 release.”). The Ninth Circuit squarely explained how to decide whether a claim sounds
13 in habeas jurisdiction: “[O]ur review of the history and purpose of habeas leads us to
14 conclude the relevant question is whether, based on the allegations in the petition,
15 release is *legally required* irrespective of the relief requested.” *Pinson*, 69 F.4th at 1072
16 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016)
17 (The key inquiry is whether success on the petitioner’s claim would “necessarily lead
18 to immediate or speedier release.”). Here, Petitioner’s claims regarding the conditions
19 of his confinement and his medical records do not arise under § 2241. *See Nettles*, 830
20 F.3d at 933 (“We have long held that prisoners may not challenge mere conditions of
21 confinement in habeas corpus.”); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025
22 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court lacks
23 jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as
24 attacking ‘the legality or duration of confinement.’”) (quoting *Pinson*, 69 F.4th at 1065);
25 *Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300783, at *1 (S.D. Cal.
26 Aug. 8, 2025) (finding petitioners’ claims did not arise under § 2241 because they were
27 not arguing they were unlawfully in custody and receiving the requested relief would
28

1 not entitle them to release). Thus, Petitioner's claims do not arise under § 2241 and the
2 petition should be dismissed.

3 **C. Petitioner's Request for Injunctive Relief is Moot**

4 Even assuming, *arguendo*, the Court considers Petitioner's request for injunctive
5 relief seeking release of Petitioner's medical records, such request is moot. On October
6 1, 2025, after obtaining Petitioner's executed authorization for release of protected
7 health information, ICE and the Otay Mesa Detention Center/CoreCivic released
8 Petitioner's complete medical file and medical records to Petitioner's counsel.
9 Declaration of Mary Cile Glover-Rogers, at ¶2. As such, Petitioner's request for
10 injunctive relief should be denied.

11 **CONCLUSION**

12 For the reasons stated above, the Court should deny and dismiss the petition and
13 request for injunctive relief.

14 DATED: October 14, 2025

Respectfully submitted,

15 ADAM GORDON
16 United States Attorney

17 s/ Mary Cile Glover-Rogers
18 MARY CILE GLOVER-ROGERS
19 Assistant United States Attorney
Attorney for Respondents

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15 Attorneys for Respondents

16 **UNITED STATES DISTRICT COURT**
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 DESMOND THIERRY NGU ANOMA,
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21 WARDEN OF THE OTAY MESA
22 DETENTION FACILITY, Current or
23 Acting Field Office Director, San Diego
24 Field Office, United States Immigration
25 and Customs Enforcement; CURRENT
26 OR ACTING DIRECTOR, United States
27 Immigration and Customs Enforcement;
28 CURRENT OR ACTING SECRETARY,
United States Department of Homeland
Security; CURRENT OR ACTING
UNITED STATES ATTORNEY
GENERAL,

29 Respondents.

30 Case No.: 25-cv-02505-BAS-BLM

31 **DECLARATION OF DAVID
32 TOWNSEND**

1 I, David Townsend, pursuant to 28 U.S.C. § 1746, hereby declare under penalty
2 of perjury that the following statements are true and correct, to the best of my
3 knowledge, information, and belief:

4 1. I am a Deportation Officer (DO) with the U.S. Department of Homeland
5 Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and
6 Removal Operations (ERO), in the Otay Mesa suboffice of the San Diego Field Office.
7 I have been with ICE since 2023 and have held my position as a DO since 2023.

8 2. I am familiar with ICE policy and procedures governing the detention and
9 removal of aliens who come into ICE's custody. The following information is based on
10 my personal knowledge, as well as my review of government databases and
11 documentation relating to Petitioner Desmond Thierry Ngu Anoma (Petitioner).

12 3. Petitioner is a citizen and national of Cameroon. Petitioner entered the
13 United States unlawfully on or about December 2, 2024. He was not then in possession
14 of any valid entry documents and Customs and Border Protection (CBP) determined
15 that he was inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I) and placed him in
16 expedited removal proceedings under 8 U.S.C. § 1225(b)(1).

17 4. On December 3, 2024, Petitioner was detained by CBP and subsequently
18 transferred to ICE custody and detained at the Otay Mesa Detention Center.

19 5. On January 27, 2025, Petitioner was interviewed by a U.S. Citizenship and
20 Immigration Services asylum officer to determine whether he had a credible fear of
21 persecution or torture if removed to Cameroon. The interview resulted in a positive
22 determination.

23 6. On January 28, 2025, a Notice to Appear was issued by DHS, charging
24 Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and 8 U.S.C.
25 § 1182(a)(7)(A)(i)(I).

26 8. Petitioner remained mandatorily detained in ICE custody under 8 U.S.C. §
27 1225(b)(1)(B)(ii).

28 9. On August 20, 2025, an immigration judge ordered Petitioner removed to

1 | Cameroon and granted his application for Withholding of Removal.

2 10. ERO is actively working to locate a third country for resettlement and to
3 effect Petitioner's removal to a third country. On September 25, 2025, ERO submitted
4 a request for a third country removal to ERO's Removal and International Operations
5 (RIO). ERO RIO is currently exploring third-country removal options but has not yet
6 identified particular countries.

7 I declare under penalty of perjury under the laws of the United States that the
8 foregoing is true and correct.

9 Executed on October 10, 2025, in Otay Mesa, California.



David Townsend
Deportation Officer
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

1 ADAM GORDON
2 United States Attorney
3 MARY CILE GLOVER-ROGERS
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15 Attorneys for Respondents

16 **UNITED STATES DISTRICT COURT**
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 DESMOND THIERRY NGU ANOMA,

19 Petitioner,

20 v.

21 WARDEN OF THE OTAY MESA
22 DETENTION FACILITY, Current or
23 Acting Field Office Director, San Diego
24 Field Office, United States Immigration
25 and Customs Enforcement; CURRENT
26 OR ACTING DIRECTOR, United States
27 Immigration and Customs Enforcement;
28 CURRENT OR ACTING SECRETARY,
United States Department of Homeland
Security; CURRENT OR ACTING
UNITED STATES ATTORNEY
GENERAL,

29 Respondents.

30 Case No.: 25-cv-02505-BAS-BLM

31 **DECLARATION OF MARY CILE
32 GLOVER-ROGERS**

1 I, Mary Cile Glover-Rogers, declare as follows:

2 1. I am an Assistant U.S. Attorney and counsel for Respondents in the above-
3 captioned action. I am over the age of 18 and legally competent and capable of making
4 this Declaration. I have personal knowledge of the facts contained in this declaration,
5 and if called upon to testify, I would and could competently do so.

6 2. On October 1, 2025, after obtaining Petitioner's executed authorization for
7 release of protected health information, Immigration and Customs Enforcement and the
8 Otay Mesa Detention Center/CoreCivic released Petitioner's complete medical file and
9 medical records to Petitioner's counsel.

10 I declare under penalty of perjury under the laws of the United States of America
11 that the foregoing is true and correct.

12 Executed this 14th day of October 2025, at San Diego, California.

13 s/ Mary Cile Glover-Rogers
14 Mary Cile Glover-Rogers

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