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

9 Hijran Malik,

10 **Petitioner,**

11 **v.**

12 Fred Figueroa, in his official capacity as  
13 the Facility Administrator of the Eloy  
14 Detention Center;

15 John Cantu, in his official capacity as  
16 Phoenix Field Office Director for U.S.  
17 Immigration and Customs Enforcement;

18 Todd Lyons, in his official capacity as  
19 Acting Director of U.S. Customs and  
20 Immigration Enforcement;

21 Kristi Noem, in her official capacity as  
22 Secretary of the Department of  
23 Homeland Security; and

24 Pamela Bondi, in her official capacity as  
25 Attorney General of the United States,

26 **Respondents.**

**Case No. CV25-03570-PHX-GMS-  
JFM**

**FIRST AMENDED VERIFIED  
PETITION FOR  
WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

**INTRODUCTION**

1  
2 1. Mr. Malik is an Afghan national who fled to this country to seek protection.  
3 An immigration judge denied his request for asylum, withholding of removal, and  
4 protection under the Convention Against Torture on February 4, 2025. *See* ECF 1-2, IJ  
5 Decision. Neither party appealed and the order became final on the same date.  
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7 2. Mr. Malik has been incarcerated in an ICE detention facility in Eloy,  
8 Arizona since on or about July 9, 2024. ECF 1-3, Declaration. Over six months of this  
9 detention has been since the IJ's order of removal became final. In *Zadvydas v. Davis*,  
10 533 U.S. 678 (2001), the Supreme Court held that noncitizens cannot be detained  
11 indefinitely on the off chance that the government might someday be able to remove them.  
12 His continuing and prolonged detention has become unlawful under *Zadvydas*.  
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15 3. The Supreme Court made clear in *Zadvydas* that the only permissible bases  
16 for prolonged detention are an individual's dangerousness and/or a flight risk posed by  
17 the person. Here, Mr. Malik has no criminal history in the United States or abroad, and  
18 there has been no allegation at any time that he poses a danger to anyone. Furthermore,  
19 as the Court noted in *Zadvydas*, detaining a noncitizen indefinitely based on flight risk  
20 cannot be justified because such justification "is weak or nonexistent where removal  
21 seems a remote possibility at best." *Zadvydas*, 533 U.S. at 690. On or about June 26, 2025,  
22 Mr. Malik provided ICE with the names and addresses of a cousin in Michigan, Khesrow  
23 Azimi, and friends in both New Jersey and Phoenix, Arizona who are willing to sponsor  
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1 him if he is released from detention. ECF 1-3, Declaration; *see also* ECF 1-4 Sponsor  
2 Information.

3 4. Mr. Malik's continued detention violates his due process rights and  
4 furthermore serves no legitimate purpose. This Court should grant habeas relief and order  
5 his immediate release.  
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7 **JURISDICTION AND VENUE**

8 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331,  
9 since this Petition arises under the Constitution and laws of the United States, namely the  
10 detention provisions of the Immigration and Nationality Act, 8 U.S.C. § 1231; the  
11 accompanying regulations codified at 8 C.F.R. § 241.4, *et seq*; the habeas corpus statute,  
12 28 U.S.C. § 2241; and the Due Process Clause of the Fifth Amendment.  
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15 6. This Court may grant relief pursuant to the Habeas Corpus Act, 28 U.S.C.  
16 § 2241, *et seq*.; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq*.; the All Writs  
17 Act, 28 U.S.C. § 1651; and the Court's inherent equitable powers.  
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19 7. Federal district courts have jurisdiction to hear habeas claims by  
20 noncitizens challenging the lawfulness of their detention. *Zadvydas*, 533 U.S. at 687.  
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22 8. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28  
23 U.S.C. § 1391(b)(2) and (e)(1) because at the time of filing Petitioner was detained in the  
24 Eloy Detention Center in Eloy, Arizona, within the jurisdiction of this Court; a substantial  
25 part of the events and omissions giving rise to the claim occurred in this district;  
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1 Respondents Cantu and Figueroa reside in this district; and Respondents are officers of  
2 the United States acting in their official capacity.

3 9. Exhaustion of administrative remedies is not required because it would be  
4 futile. In fact, Mr. Malik applied before the immigration court for release from detention  
5 on or about September 17, 2025. ECF 1-5, EOIR Correspondence. The court rejected the  
6 filing because the case was no longer pending before the court and directed Mr. Malik to  
7 “speak to ICE.” *Id.*  
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9  
10 **PARTIES**

11 10. Mr. Malik is a 22-year-old citizen of Afghanistan who is being detained by  
12 Respondents at the Eloy Detention Center in Eloy, Arizona.

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14 11. Respondent Fred Figueroa is the Facility Administrator of the Eloy  
15 Detention Center, which detains individuals suspected of civil immigration violations  
16 pursuant to a contract with Immigration and Customs Enforcement (ICE). Respondent  
17 Figueroa is the immediate physical custodian responsible for the detention of Petitioner.  
18 He is named in his official capacity.  
19

20 12. Respondent John Cantu is the director of ICE’s Phoenix Field Office, which  
21 is responsible for ICE activities in Arizona and is responsible for the Eloy Detention  
22 Center. Respondent Cantu’s place of business is in the District of Arizona, and he is an  
23 immediate legal custodian responsible for Petitioner’s detention. He is named in his  
24 official capacity.  
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1 13. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons  
2 is responsible for ICE's policies, practices, and procedures, including those relating to  
3 detention of immigrants during the removal process. Respondent Lyons is a legal  
4 custodian of Petitioner. He is named in his official capacity.  
5

6 14. Respondent Kristi Noem is the Secretary of the U.S. Department of  
7 Homeland Security. She is named in her official capacity. In that capacity, Respondent  
8 Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C.  
9 § 1103.  
10

11 15. Respondent Pamela J. Bondi is the Attorney General of the United States.  
12 She is named in her official capacity.  
13

#### 14 FACTUAL BACKGROUND

##### 15 Immigration court proceedings

16 16. Mr. Malik entered the United States near on or about July 7, 2024 and was  
17 taken into ICE custody shortly thereafter. He has remained in custody ever since.  
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19 17. Mr. Malik was served with a Notice to Appear charging him with being a  
20 noncitizen present in the United States without being admitted or paroled.  
21

22 18. A merits hearing was held on January 6, 2025 at which the immigration  
23 court denied all applications for relief. ECF 1-2, Immigration Judge Order. On  
24 information and belief, the judge found that Mr. Malik was not credible and the harm he  
25 testified to did not rise to level of persecution. The judge also denied protection under the  
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1 Convention Against Torture because he found that no government official would torture  
2 Mr. Malik or acquiesce to his torture.

3 **Post-order custody and removal**

4  
5 19. 8 U.S.C. § 1231(a) governs the detention of noncitizens who have been  
6 ordered removed from the United States. 8 U.S.C. § 1231(a)(1)(A) provides for a removal  
7 period of 90 days. This period begins on “[t]he date the order of removal becomes  
8 administratively final,” which in this case was the date of the immigration judge’s  
9 decision on February 4, 2025. 8 U.S.C. § 1231(a)(1)(B)(i).

10  
11 20. Mr. Malik has been detained pursuant to 8 U.S.C. § 1231(a) since February  
12 4, 2025, for a total period that now exceeds six months. His continuing detention at Eloy  
13 violates his due process rights as articulated by the Supreme Court in *Zadvydas*.

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15 21. Following the Court’s decision in *Zadvydas*, “DHS promulgated  
16 regulations to implement the newly established constitutional constraints.” *Bonitto v.*  
17 *Bureau of Immigration and Customs Enforcement*, 547 F. Supp. 2d 747, 752 (S.D. Tex.  
18 2008). Those regulations are codified at 8 C.F.R. § 241.4 and provide for reviews of a  
19 noncitizen’s continuing detention after 90 days and again after 180 days. *See Bonitto*, 547  
20 F. Supp. 2d at 752-53 (describing procedures).

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23 22. The provisions for the 90-day review are set out in 8 C.F.R. § 241.4(h),  
24 which provides that the district director or Director of the Detention and Removal Field  
25 Office will conduct “a review of the alien’s records and any written information submitted  
26 in English to the district director by or on behalf of the alien.” In considering whether to  
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1 release the noncitizen, the district director is required to consider the factors set out in  
2 § 241.4(f), which include the noncitizen's criminal record, mental health reports, evidence  
3 of rehabilitation, prior immigration violations and history, and other factors. Mr. Malik  
4 had an interview with ICE in April or May, 2025. ECF 1-3, Declaration. ICE agents told  
5 him that he could be sent to detention in Guantanamo Bay or removed to El Salvador. *Id.*  
6 Mr. Malik was terrified. ICE did not release him after that interview. *Id.*  
7

8           23. If the district director decides to continue detention after the 90-day removal  
9 period, another review is mandated at the 180-day mark, the procedures for which are set  
10 out in § 241.4(i). Under these procedures, a "Review Panel" of two members is supposed  
11 to review the noncitizen's records and make a recommendation on release; if the Director  
12 of the Headquarters Post-Order Detention Unit (HQPDU) does not accept their  
13 recommendation, or if the panel does not recommend release, the Review Panel "shall  
14 personally interview the detainee." § 241.4(i)(3)(i). Following the interview, the Review  
15 Panel "shall issue a written recommendation that the alien be released or remain in  
16 custody." § 241.4(i)(5).  
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20           24. On July 2, 2025, ICE provided Mr. Malik with a 180-day custody  
21 determination that he would remain in detention. In an undated letter, ICE stated that it  
22 would continue to detain Mr. Malik because Mr. Malik's entry without inspection into the  
23 U.S. "shows disregard to the laws and indicates you are a flight risk." ECF 1-6 Custody  
24 Decision. It also states that "ICE has the means to obtain a travel document" to effectuate  
25 Mr. Malik's removal. *Id.*  
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1 such as being inadmissible or deportable under specified statutory categories. 8 U.S.C.  
2 § 1231(a)(6). Mr. Malik does not fall into any of these categories.

3 30. Constitutional limits on detention beyond the removal period are well  
4 established. Government detention violates due process unless it is reasonably related to  
5 a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. “[W]here detention’s goal  
6 is no longer practically attainable, detention no longer ‘bear[s] [a] reasonable relation to  
7 the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v.*  
8 *Indiana*, 406 U.S. 715, 738 (1972)). Given that there has been no allegation of any  
9 dangerousness in Mr. Malik’s case, and no neutral adjudicator has determined that Mr.  
10 Malik poses a flight risk – indeed, he has provided evidence from multiple sponsors  
11 showing that he will be safely housed with them– all constitutional justification for his  
12 prolonged detention has now evaporated.

13 31. The purpose of detention during and beyond the removal period is to  
14 “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme  
15 Court “read § 1231 to authorize continued detention of an alien following the 90-day  
16 removal period for only such time as is reasonably necessary to secure the alien’s  
17 removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

18 32. As the Supreme Court explained, where there is no possibility of removal,  
19 immigration detention presents due process concerns because the need to detain the  
20 noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak  
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1 or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary  
2 to bring about that alien’s removal.” *See id.* at 689.

3 33. To balance these competing interests, the *Zadvydas* Court established a  
4 rebuttable presumption regarding what constitutes a “reasonable period of detention” for  
5 noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months’  
6 detention could be deemed a “presumptively reasonable period of detention,” after which  
7 the burden shifts to the government to justify continued detention if the noncitizen  
8 provides a “good reason to believe that there is no significant likelihood of removal in the  
9 reasonably foreseeable future.” *Id.* at 701.

12 34. Here, Mr. Malik has been detained longer than the presumptively  
13 reasonable six-month period. His removal period began on February 4, 2025, when the  
14 immigration judge’s removal order became final, and he passed six months of post-  
15 removal order custody on August 3, 2025.

17 35. Mr. Malik has “good reason to believe that there is no significant likelihood  
18 of removal in the reasonably foreseeable future.” *Id.*

20 36. By law, Mr. Malik can be removed to Afghanistan, but ICE has attempted  
21 and failed to do so. To Mr. Malik’s knowledge, ICE has not attempted to remove him to  
22 any other third country.

24 37. Respondents have been legally entitled to remove Mr. Malik to a safe third  
25 country for more than six months, but have for whatever reason been unable or unwilling  
26 to do so; therefore, it appears that there is “good reason” to believe there is no “*significant*  
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1 likelihood” of his removal “in the *reasonably* foreseeable future” (emphasis added). At  
2 this point, the Government “must respond with evidence sufficient” to indicate that it is  
3 *significantly* likely that Mr. Malik will, in fact, be removed in a *reasonable* period of time.  
4 *Zadvydas*, 533 U.S. at 701.

6 **B. The Government must be required to rebut Mr. Malik’s showing.**

7 38. Some deference is owed to the government’s assessment of the likelihood  
8 of removal and the time it will take to execute removal. *Id.* at 700. However, just as pro  
9 forma findings of dangerousness do not suffice to justify indefinite detention, pro forma  
10 statements that removal is likely should not satisfy the government’s burden. The  
11 government must rebut a detainee’s showing that there is no significant likelihood of  
12 removal in the reasonably foreseeable future with “evidence of progress . . . in negotiating  
13 a petitioner’s repatriation.” *Gebrelibanos v. Wolf*, 2020 WL 5909487 at \*3 (S.D. Cal., Oct.  
14 6, 2020); *Hassoun v. Sessions*, 2019 WL 78984 at \*4 (W.D.N.Y. Jan. 2, 2019) (“[A]s time  
15 passes, the mere existence of possible avenues for removal becomes insufficient to justify  
16 further detention; some evidence of progress is required”) (collecting cases).

17 39. The longer a noncitizen is detained, the more evidence the Government  
18 needs to put forward to justify continued detention. Specifically, “for detention to remain  
19 reasonable [once six months of detention have passed], as the period of prior post-removal  
20 confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would  
21 have to shrink.” *Zadvydas*, 533 U.S. at 701; see also *Alexander v. Att’y Gen. U.S.*, 495 F.  
22 App’x 274, 275 (3d Cir. 2012) (“[T]he longer an alien is detained, the less he must put  
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1 forward to obtain relief”); *Hassoun*, 2019 WL 78984 at \*4 (“[T]he government’s burden  
2 becomes more onerous the longer an alien is detained, because it must show that removal  
3 will be effectuated sooner in the future.”).

4  
5 40. Even if ICE is engaged in ongoing efforts to secure removal, such efforts  
6 alone do not mitigate already-prolonged detention, nor do they render removal reasonably  
7 foreseeable. *See Shefqet v. Ashcroft*, 2003 WL 1964290 at \*5 (N.D. Ill. April 28, 2003)  
8 (“Even if [ICE] has been making regular efforts to secure Petitioner’s travel document  
9 . . . at this time there must be some concrete evidence of progress. [ICE] cannot rely on  
10 good faith efforts alone”). The likelihood of removal “does not turn on the degree of the  
11 government’s good faith efforts,” but rather “on whether and to what extent the  
12 government’s efforts are likely to bear fruit.” *Hassoun*, 2019 WL 78984 at \*5. Indeed, the  
13 Supreme Court specifically rejected the notion that removal is reasonably foreseeable as  
14 long as “good faith efforts” continue, holding that such a standard “would seem to require  
15 an alien seeking release to show the absence of any prospect of removal—no matter how  
16 unlikely or unforeseeable—which demands more than our reading of the statute can bear.”  
17 *Zadvydas*, 533 U.S. at 701. “[I]f [ICE] has no idea of when it might reasonably expect  
18 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is  
19 likely to occur—or even that it might occur—in the reasonably foreseeable future.”  
20 *Palma*, 2020 WL 4880158, at \*3 (citing *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102  
21 (W.D.N.Y. 2019)).

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27 41. Given ICE’s failure to take any meaningful step toward removing Mr. Malik  
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1 in more than six months, this Court should order Mr. Malik's immediate release subject  
2 to whatever conditions this Court deems appropriate. *See, e.g., Manson v. Barr*, 2020 WL  
3 3962235 (M.D. Fla. July 13, 2020), at \*3 (ordering immediate release on conditions of  
4 supervision pursuant to 8 U.S.C. § 1231(a)(3)).  
5

6 **C. Due process requires notice and a meaningful opportunity to be heard**  
7 **before Mr. Malik is removed to a third country not specified in the IJ's**  
8 **order.**

9 42. Under the INA, Respondents have a clear and non-discretionary duty to  
10 execute final orders of removal only to the designated country of removal. The statute  
11 explicitly states that a noncitizen "*shall* remove the [noncitizen] to the country the  
12 [noncitizen] . . . designates." 8 U.S.C. § 1231(b)(2)(A)(ii) (emphasis added). And even  
13 where a noncitizen does not designate the country of removal, the statute further mandates  
14 that DHS "shall remove the alien to a country of which the alien is a subject, national, or  
15 citizen." *See id.* § 1231(b)(2)(D); *see also generally Jama v. ICE*, 543 U.S. 335, 341 (2005).  
16

17 43. As the Supreme Court has explained, such language "generally indicates a  
18 command that admits of no discretion on the part of the person instructed to carry out the  
19 directive," *Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661 (2007)  
20 (quoting *Ass'n of Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d 1150, 1153  
21 (D.C. Cir. 1994)); *see also Black's Law Dictionary* (11th ed. 2019) ("Shall" means "[h]as  
22 a duty to; more broadly, is required to . . . This is the mandatory sense that drafters typically  
23 intend and that courts typically uphold"); *United States v. Monsanto*, 491 U.S. 600, 607  
24 (1989) (finding that "shall" language in a statute was unambiguously mandatory).  
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1 Accordingly, any imminent third country removal fails to comport with the statutory  
2 obligations set forth by Congress in the INA and is unlawful.

3 44. Moreover, prior to any third country removal, ICE must provide Petitioner  
4 with sufficient notice and an opportunity to respond and apply for fear-based relief as to  
5 that country, in compliance with 8 U.S.C. 1231(b)(3)(A), the Due Process Clause, and a  
6 binding international treaty, the Convention Against Torture and Other Cruel, Inhuman or  
7 Degrading Treatment or Punishment ("CAT"). *See* 8 C.F.R. § 208.18 (implementing CAT).  
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10 45. The U.S. District Court for the District of Massachusetts previously issued a  
11 nationwide preliminary injunction blocking such third country removals without notice and  
12 a meaningful opportunity to apply for relief under CAT, in recognition that the  
13 government's policy violates due process and the United States' obligations under CAT.  
14 *D.V.D. v. U.S. Dep't of Homeland Security*, 778 F. Supp. 3d 355 (D. Mass. Apr. 18, 2025).  
15 The U.S. Supreme Court has since granted the government's motion to stay the injunction  
16 on June 23, 2025, just before the Court issued *Trump v. Casa*, 606 U.S. \_\_\_\_ (2025) (June  
17 27, 2025) limiting nationwide injunctions. The government has vehemently argued that 8  
18 U.S.C. § 1252(f)(1) precludes nationwide injunctive relief. Thus, the Supreme Court's  
19 order, which is not accompanied by an opinion, signals likely disagreement with the  
20 preliminary injunctive relief provided for the nationwide class, as opposed to any  
21 disagreement as to the substance of the statutory rights determined by the district court in  
22 *D.V.D.*  
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1 46. Thus, if Mr. Malik were to be removed to any third country, it would violate  
2 his statutory and due process rights unless he is first provided with constitutionally  
3 adequate notice and a meaningful opportunity to apply for protection under the INA and  
4 CAT. In the absence of any other injunction, intervention by this Court is necessary to  
5 protect those rights.  
6

7 **CLAIMS FOR RELIEF**

8 **Count I – Violation of 8 U.S.C. § 1231(a), as interpreted by *Zadvydas***  
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10 47. Petitioner re-alleges and incorporates by reference all preceding  
11 paragraphs.

12 48. Mr. Malik's prolonged and open-ended detention by Respondents violates  
13 8 U.S.C. § 1231(a), as interpreted by *Zadvydas*. Mr. Malik's 90-day statutory removal  
14 period and six-month presumptively reasonable removal period for continued removal  
15 efforts have passed.  
16

17 49. Respondents' failure to remove to Mr. Malik since February 4, 2025  
18 indicates that Respondents either cannot or will not remove him in the reasonably  
19 foreseeable future, particularly given that Respondents have already attempted to remove  
20 him to Afghanistan in July and were not able to do so.  
21

22 50. Under *Zadvydas*, Mr. Malik's continued detention is unreasonable and not  
23 authorized by 8 U.S.C. § 1231.  
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1 **Count II – Procedural Due Process – Unconstitutionally Indefinite Detention**  
2 **U.S. Const. amend. V**

3 51. Petitioner re-alleges and incorporates herein by reference, as if set forth fully  
4 herein, the allegations in all the preceding paragraphs.

5 52. The Due Process Clause of the Fifth Amendment forbids the government  
6 from depriving any person of liberty “without due process of law.” U.S. Const. amend. V.  
7

8 53. Other than as punishment for a crime, due process permits the government  
9 to take away liberty only “in certain special and narrow nonpunitive circumstances ...  
10 where a special justification ... outweighs the individual’s constitutionally protected  
11 interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690. Such special  
12 justification exists only where a restraint on liberty bears a “reasonable relation” to  
13 permissible purposes. *Jackson*, 406 U.S. at 738; *see also Foucha v. Louisiana*, 504 U.S.  
14 71, 79 (1992). In the immigration context, those purposes are “ensuring the appearance of  
15 aliens at future immigration proceedings and preventing danger to the community.”  
16 *Zadvydas*, 533 U.S. at 690 (quotations omitted).  
17  
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19 54. Those substantive limitations on detention are closely intertwined with  
20 procedural due process protections. *Foucha*, 504 U.S. at 78-80. Noncitizens have a right to  
21 adequate procedures to determine whether their detention in fact serves the purposes of  
22 ensuring their appearance or protecting the community. *Id.* at 79; *Zadvydas*, 533 U.S. at  
23 692; *Casas-Castrillon v. Dep’t of Homeland Sec.*, 535 F.3d 942, 949 (9th Cir. 2008). Where  
24 laws and regulations fail to provide such procedures, the habeas court may assess whether  
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1 the noncitizen's immigration detention is reasonably related to the purposes of ensuring his  
2 appearance or protecting the community, *Zadvydas*, 533 U.S. at 699, or require release.

3 55. Under this framework, Petitioner's release is required because his detention  
4 violates his due process rights.

5  
6 56. His continued detention without any reasonably foreseeable end point is thus  
7 unconstitutionally prolonged in violation of clear Supreme Court precedent. *Zadvydas*, 533  
8 U.S. at 701.

9  
10 57. Moreover, because Petitioner poses no danger or flight risk, his detention is  
11 not reasonably related to its claimed purpose, and is unlawful.

12 **Count IV - Procedural Due Process**  
13 **Unconstitutionally Inadequate Procedures Regarding Third Country Removal**  
14 **(U.S. Const. amend. V)**

15 58. Petitioner re-alleges and incorporates herein by reference, as if set forth  
16 fully herein, the allegations in all preceding paragraphs.

17  
18 59. The Due Process Clause of the Fifth Amendment requires sufficient notice  
19 and an opportunity to be heard prior to the deprivation of any protected rights. U.S. Const.  
20 amend. V; *see also Louisiana Pacific Corp. v. Beazer Materials & Services, Inc.*, 842 F.  
21 Supp. 1243, 1252 (E.D. Cal. 1994) (“[D]ue process requires that government action  
22 falling within the clause's mandate may only be taken where there is notice and an  
23 opportunity for hearing.”).

24  
25 60. Petitioner has a protected interest in his life. Thus, prior to any third country  
26 removal, Petitioner must be provided with constitutionally compliant notice and an  
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1 opportunity to respond and contest that removal if he has a fear of persecution or torture  
2 in that country.

3 61. For these reasons, Petitioner's removal to any third country without  
4 adequate notice and an opportunity to apply for relief under the Convention Against  
5 Torture would violate his due process rights. The only remedy of this violation is for this  
6 Court to order that he not be summarily removed to any third country unless and until he  
7 is provided constitutionally adequate procedures.  
8  
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10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests that this Court:

- 12 (a) Assume jurisdiction over this matter;
- 13  
14 (b) Declare that Petitioner's continued detention violates 8 U.S.C. § 1231, as  
15 interpreted by the Supreme Court in *Zadvydas*;
- 16 (c) Declare that Petitioner's prolonged and indefinite detention violates his rights  
17 under the Due Process Clause of the Fifth Amendment;
- 18  
19 (d) Grant a writ of habeas corpus and order Respondents to release Petitioner from  
20 detention forthwith, on an order of supervision pursuant to 8 U.S.C.  
21 § 1231(a)(3);
- 22  
23 (e) Enjoin Respondents from removing him to a third country without first  
24 providing him with 21 days' notice written in a language he can understand and  
25 a meaningful opportunity to contest such removal under the Convention  
26 Against Torture, including a reasonable fear interview before a DHS officer;
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- 1 (f) Award Petitioner his reasonable attorneys' fees and costs pursuant to the Equal  
2 Access to Justice Act or other applicable law;  
3 (g) Grant any other relief that this Court deems just and proper.  
4

5  
6 Dated: November 7, 2025

Respectfully submitted,

7  
8 /s/ Laura Belous  
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