

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAOUD MEHRABI,

Petitioner,

v.

PAMELA BONDI, ET AL,

Respondents.

Case No. 2:25-cv-02227-DGE-TLF

REPORT AND
RECOMMENDATION

Noted for December 25th, 2025

I. INTRODUCTION

Petitioner Daoud Mehrab, a native, and citizen of Afghanistan, is detained by U.S. Immigration and Customs Enforcement ("ICE") at the Northwest ICE Processing Center ("NWIPC") in Tacoma, Washington. Dkt. 6, Habeas Corpus Petition. He has been detained since on or about February 5, 2025, and was issued a final removal order on April 16, 2025. *Id.*; Dkt. 11, Declaration of Deportation Officer Enrique Rodriguez ("Rodriguez Decl.") ¶ 10.

On November 11, 2025, petitioner, through counsel, filed a petition for writ of habeas corpus under 28 U.S.C. 2241, arguing: (1) his continued detention violates the Due Process Clause of the Fifth Amendment and contravenes the reasonableness standard set by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001); (2) the government has no authority to remove him to any country other than France and any attempt to carry out removal to a third country requires notice and a meaningful

1 opportunity to be heard in reopened removal proceedings, as mandated by statute and
2 the Constitution; and (3) ICE's recently implemented third-country removal policy¹ is
3 inherently punitive and therefore unconstitutional under the Fifth and Eighth
4 Amendments, as explained in *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).
5 *Id.*

6 For the reasons discussed below, the Court recommends that the petitioner's
7 federal habeas petition (Dkt. 6) should be GRANTED as to claims one and two; and, to
8 fully evaluate claim three, the Court should expand the record under Rules 1(b) and
9 7(a)-(c) of the Rules Governing Section 2254 Cases in the United States District Courts
10 and consider holding an evidentiary hearing.

11 II. BACKGROUND

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13 Petitioner entered the United States near San Ysidro, California without
14 inspection on or about December 18, 2024. Dkt. 6 at 7; Rodriguez Decl. ¶ 4. He was
15 apprehended by immigration authorities on December 19, 2024, and processed for
16 expedited removal under 8 U.S.C. § 1225(b)(1). *Id.* ¶ 5. He was issued a Notice and
17 Order of Expedited Removal (Form I-860), finding him inadmissible under §
18 1182(a)(7)(A) as an applicant for admission lacking valid entry documents. *Id.* ¶ 5.

19 On January 24, 2025, the Department of Homeland Security (DHS) exercised its
20 discretionary parole authority and released petitioner from custody pursuant to 8 U.S.C.

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23 ¹ On July 9, 2025, ICE issued an internal memorandum on third-country removals, changing its
24 longstanding procedure in light of the U.S. Supreme Court granting the Government's application to stay
25 the district court's nationwide preliminary injunction in *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 25-CV-
10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025).

1 § 1182(d)(5)(A). *Id.* ¶ 6. He was instructed to report to the local Enforcement and
2 Removal Operations (“ERO”) office on February 24, 2025. *Id.* Before that date arrived,
3 the government issued a warrant for his arrest on February 5, 2025, to execute the
4 expedited removal order. *Id.* ¶ 7. On February 5, 2025, petitioner sought to visit family in
5 Canada, but he was turned away by Canadian authorities at the Canadian border. Dkt.
6 6 at 7. Upon his return, he was detained by immigration officials and taken to NWIPC.
7 *Id.*

8 On March 18, 2025, petitioner issued a verbal statement he feared returning to
9 Afghanistan and expressed his desire to be removed instead to France, where he
10 previously held lawful residency.² Rodriguez Decl. ¶ 9. The government referred him for
11 a reasonable-fear interview, which was conducted on April 11, 2025, and resulted in a
12 negative determination. *Id.* ¶ 9. On April 16, 2025, an immigration judge affirmed the
13 finding, denied asylum, and issued a final removal order. *Id.* at 10; Dkt. 6 at 7.
14 According to petitioner, the immigration judge did not order him returned to either
15 Afghanistan or France. Dkt. 6 at 16.

16 After the reasonable-fear proceedings ended, the 90-day statutory removal
17 period commenced. On August 5, 2025 — 111 days after the final order — ERO
18 transmitted petitioner’s travel document application to the French consulate. Rodriguez
19 Decl. ¶ 11. That same day, the French consulate indicated that it would initiate internal
20 procedures to determine whether travel documents could be issued. *Id.*

23 ² Petitioner obtained a French residency permit in 2021, which was valid for five years. His residency
24 permit apparently expired on October 20, 2025, while in ICE detention. Dkt. 6 at 7. Petitioner has a valid a
25 French driver’s license and a French passport. *Id.*

1 On September 12, 2025, and again on October 15, 2025, DHS was in dialogue
2 with the French consulate regarding next steps. *Id.* ¶ 12-13. On November 17, 2025,
3 French officials informed ERO that travel documents and a visa would be issued but
4 ERO has not received the documents and has not provided evidence of a projected
5 date for removal. Dkt. 10 at 14, 15. The Government has identified no travel
6 arrangements or confirmed when the documents necessary for removal will be issued.
7 ERO reports it is “actively monitoring” the situation. Rodriguez Decl. ¶ 15.

8 III. DISCUSSION

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10 Petitioner seeks three forms of relief: (1) immediate release from custody pursuant
11 to a supervision order; (2) an order preventing removal to a third country (other than
12 France) without notice and meaningful opportunity to respond in compliance with the
13 statute and Due Process in reopened removal proceedings; and (3) an order barring
14 removal to any third country under respondents’ allegedly punitive removal policy. Dkt.
15 6. at 3. After considering the parties’ filings and the record, the Court recommends that
16 the petition (Dkt. 6) be GRANTED in part, and the record be developed further for the
17 punitive intent claim.

18 The Framers of the U.S. Constitution considered the writ of habeas corpus to be so
19 critical to the protection of individual liberty that they identified specific and limited
20 grounds for suspension of the writ. *Boumediene v. Bush*, 553 U.S. 723, 743 (2008). The
21 writ of habeas corpus “protects the rights of the detained by affirming the duty and
22 authority of the Judiciary to call the jailer to account.” *Id.* at 745. The Court has power
23 to conduct meaningful review of the cause for detention and the executive’s power to
24 detain, and to issue an equitable remedy under the writ of habeas corpus that includes
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1 release of the prisoner, and the means to correct errors in the government's process. *Id.*
2 at 779-787.

3 "The writ of habeas corpus is the fundamental instrument for safeguarding individual
4 freedom against arbitrary and lawless state action. Its preeminent role is recognized by
5 the admonition in the Constitution that: 'the Privilege of the Writ of Habeas Corpus shall
6 not be suspended. . . ' U.S. Const., Art. 1, s 9, cl. 2. The scope and flexibility of the writ
7 — its capacity to reach all manner of illegal detention — its ability to cut through barriers
8 of form and procedural mazes — have always been emphasized and jealously guarded
9 by courts and lawmakers. The very nature of the writ demands that it be administered
10 with the initiative and flexibility essential to insure that miscarriages of justice within its
11 reach are surfaced and corrected." *Harris v. Nelson*, 394 U.S. 286, 291 (1969).

12 **A. Post Removal Order Detention under *Zadyvdas***

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14 In the first ground for relief, petitioner seeks release from custody under *Zadvydas*,
15 533 U.S. at 696-99. Dkt. 6, Habeas Corpus Petition, at 14-16. In *Zadvydas*, the Supreme
16 Court considered the provisions of 8 U.S.C. § 1231(a)(6) and imposed constitutional
17 limits on the indefinite detention of noncitizens.³ The Supreme Court held that the Due
18 Process Clause prohibits detention beyond the period reasonably necessary to
19 effectuate removal because "freedom from imprisonment — from government custody,
20 detention, or other forms of physical restraint — lies at the heart of the liberty [the]
21 Clause protects." *Id.* at 690.

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23 _____
24 ³ Petitioner's detention is pursuant to a final order of removal issued on April 16, 2025. Accordingly, §
25 1231(a), not § 1225(b), governs.

1 The Supreme Court determined that it is “presumptively reasonable” for DHS to
2 detain a noncitizen for six months following entry of a final removal order while it works
3 to remove the individual from the United States. *Id.* “After this 6-month period, once the
4 [noncitizen] provides good reason to believe that there is no significant likelihood of
5 removal in the reasonably foreseeable future, the Government must respond with
6 evidence sufficient to rebut that showing.” *Id.* If the Government fails to rebut the
7 noncitizen’s showing, the noncitizen is entitled to habeas relief. *Id.*

8 After the removal period expires, DHS has the discretionary authority to continue
9 to detain certain noncitizens, including those who are removable under § 1227(a)(2), or
10 to release them on supervision. 8 U.S.C. § 1231(a)(6).

11 Although § 1231(a)(6) authorizes ICE to detain petitioner, it cannot do so
12 indefinitely. In *Zadvydas*, the Supreme Court held that § 1231(a)(6) implicitly limits a
13 noncitizen’s detention to a period reasonably necessary to bring about that individual’s
14 removal from the United States and does not permit “indefinite” detention. *Zadvydas*,
15 533 U.S. at 701.

16 The six-month presumption “does not mean that every [noncitizen] not removed
17 must be released after six months. To the contrary, [a noncitizen] may be held in
18 confinement until it has been determined that there is no significant likelihood of
19 removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701.
20 Nevertheless, “for detention to remain reasonable, as the period of prior post removal
21 confinement grows, what counts as the ‘reasonably foreseeable future’ conversely
22 would have to shrink.” *Id.* The Ninth Circuit has held that uncertainty as to when removal
23 will occur does not establish that detention is indefinite. *Diouf v. Mukasey* (“*Diouf I*”),
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1 542 F.3d 1222, 1233 (9th Cir. 2008) (“That the detention did not have a certain end date
2 does not change the analysis.”); *see also Zadvydas*, 533 U.S. at 702 (holding that the
3 fact there was no “extant or pending” repatriation agreement with the country of removal
4 was insufficient to establish detention was indefinite and remanding for the lower courts
5 to also consider the likelihood that future negotiations would result in a repatriation
6 agreement).

7 The Ninth Circuit has explained that detention becomes indefinite if, for example,
8 the country designated in the removal order refuses to accept the noncitizen, or if
9 removal is barred by the laws of this country. *Diouf I*, 542 F.3d at 1233.

10 Here, petitioner has been detained longer than the *Zadvydas* six-month
11 presumption. He has been subject to a removal order as of April 15, 2025 — beyond the
12 statutory 90-day removal period and the constitutional six-month benchmark. Dkt. 10 at
13 13. Accordingly, petitioner has satisfied the first component of the *Zadvydas* framework.

14 Petitioner has met his burden of providing “good reason to believe” that removal
15 to France is not significantly likely in the reasonably foreseeable future. Petitioner
16 highlights that respondents acknowledge no travel document has issued; that ICE is
17 “waiting for the consulate to issue the travel document” with no indication of when that
18 may occur; that “a specific date of removal has not been set”; and that ICE has spent
19 months attempting to secure French authorization. Dkt. 12 at 3-4; Dkt. 10 at 1-3, 12-13.

20 Respondents offer no communication from French authorities confirming
21 acceptance of petitioner, no timeline for issuance of travel documents, and no evidence
22 suggesting that removal will occur within any reasonable estimated time frame. Without
23 proof that France will accept petitioner, or that there is a reasonably estimated time
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1 frame for France to issue travel documents for petitioner, respondents' burden is not
2 met. This is not simply uncertainty about the specific amount of time, nor is there any
3 showing that petitioner has refused to cooperate; unlike the situation in *Diouf v.*
4 *Mukasey*, the uncertainty in this case is about whether France will issue travel
5 documents for petitioner at all.

6 The Government's hope that a consulate may eventually issue a travel document
7 does not amount to evidence of a significantly likely removal. Courts in this district have
8 repeatedly rejected the type of speculative, generalized assertions respondents offer
9 here. See *Hambarsonpour v. Bondi*, No. C25-1802-RSM, 2025 WL 3251155, at *3
10 (W.D. Wash. Nov. 21, 2025) (rejecting the government's contention that a French travel
11 document was likely to be issued in the foreseeable future and rejecting government's
12 contention that "[t]he fact that [petitioner] does not yet have a specific date of anticipated
13 removal does not make his detention indefinite"); *Nguyen v. Scott*, No. 2:25-CV-01398-
14 TMC, 2025 WL 2419288, at *16 (W.D. Wash. Aug. 21, 2025) (rejecting as insufficient
15 ICE's statement that it "anticipated" a travel document would issue and removal would
16 occur "shortly thereafter").

17 Because petitioner has carried his burden and the Government has not rebutted
18 it, the Court should rule that removal is not significantly likely in the reasonably
19 foreseeable future. Continued detention therefore violates *Zadvydas*. Petitioner should
20 be released subject to supervised release under conditions similar to conditions of his
21 prior release.
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B. Third Country Removal

In grounds two and three, petitioner seeks two forms of relief related to potential third-country removal. Dkt. 6 at 16-18. He asks the Court to: (1) order that respondents may not seek to remove him to any third country (besides France) “without notice and a meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings,” and (2) prohibit respondents from removing him to any third country at all on the ground that the current third-country removal policy is unconstitutionally punitive. See Dkt. 6 at 19-20. The Government does not address the merits of either claim; instead, they rely on two threshold arguments — ripeness and *D.V.D.* class membership.

1. Ripeness and D.V.D. Class Membership

The Government first argues that petitioner's third-country removal claims are not ripe because “ICE is currently seeking to remove Petitioner solely to France, has completed the final steps of the travel document process, and is just waiting for the consul to issue the travel document.” Dkt. 10 at 14. Respondents acknowledge that no travel document has been issued, that “a specific date of removal has not been set,” and that the French Embassy stated that it would issue a travel document and visa as of November 17, 2025, without indicating an estimated time frame. *Id.* at 13.

This concession by ICE that it has no date of removal, no evidence of when the French-issued documents will arrive, and no timeline for execution of removal are circumstances courts have found sufficient to trigger review of third-country removal claims. See *Nguyen*, 2025 WL 2419288, at *13-15; *Abubaka v. Bondi*, No. C25-

1 1889RSL, 2025 WL 3204369, at *10-*12 (W.D. Wash. Nov. 17, 2025). Moreover, the
2 harm petitioner seeks to avoid — summary transfer to a third country without notice or
3 meaningful process — cannot be remedied once removal occurs. *Louangmility v.*
4 *Noem*, No. 25-CV-2502-JES-MSB, 2025 WL 2881578, at *4 (S.D. Cal. Oct. 9, 2025)
5 (citation omitted)); *see also Nguyen*, 2025 WL 2419288, at *27.

6 Respondents maintain the petition may not be adjudicated because petitioner is
7 a member of the class in *D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-CV-10676-
8 BEM, 2025 WL 1453640 (D. Mass. May 21, 2025). Dkt. 10.

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10 The Government’s second procedural argument, that petitioner’s *D.V.D.* class
11 membership deprives this Court of authority, is equally unavailing. The Government
12 contends the Court “may not issue the relief sought by Petitioner because he is a
13 member of the plaintiff class in *D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-CV-
14 10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025).” Dkt. 10 at 14. The
15 Government argues that petitioner cannot “end-run the Supreme Court’s stay of an
16 injunction barring his removal to a third country by seeking the same relief in a different
17 court” and petitioner is “not entitled to another bite at the apple.” *Id.* at 14-15.

18 In *Nguyen*, 2025 WL 2419288, at *21-*23, the Court reasoned that “the class
19 certification order in *D.V.D.* does not prevent this Court from adjudicating Petitioner’s
20 claims regarding third-country removal,” and further reasoned the Supreme Court’s
21 emergency stay order provides no merits guidance and does not strip district courts of
22 jurisdiction over individual habeas petitions. The Court in *Abubaka* expressly adopted
23 the same reasoning. *Abubaka*, 2025 WL 3204369, at *3 (“As in *Baltodano*, this Court
24 adopts the *Nguyen* court’s detailed and thoughtful analysis of this issue... This Court
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1 adopts the reasoning of those decisions and rejects respondents' argument for the
2 same reasons."); *Baltodano*, 2025 WL 2987766, *2-*3.

3 **2. Due Process and Current Third-Country Removal**

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5 Due Process forbids last-minute designation of a new removal country when the
6 noncitizen has not been given a fair opportunity to address the risks of harms in that
7 country. See *Najjar v. Lynch*, 630 F. App'x 724 (9th Cir. 2016) (citing *Andriasian v. INS*,
8 180 F.3d 1033, 1041 (9th Cir. 1999)); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir.
9 2004); *Sadychov v. Holder*, 565 F. App'x 648, 651 (9th Cir. 2014).

10 The July 9, 2025 memorandum allegedly allows ICE to remove a noncitizen to a
11 country not designated in the removal order without providing notice, without reopening
12 proceedings, and without affording any meaningful opportunity for the individual to
13 respond. Dkt. 6 at 12-13. Although ICE asserts that France is its present objective,
14 petitioner remains subject to a final order of removal. Under 8 U.S.C. § 1231(b)(2), the
15 government has statutory discretion to remove him to any permissible third country if
16 removal to France becomes unavailable.

17 Respondents' position is essentially a promise that ICE will not attempt third-
18 country removal because they are working on effectuating removal to France. This
19 argument was rejected in *Nguyen*, *Abubaka*, and *Hanbarsonpour*. In those cases,
20 courts held that such unenforceable assurances are not enough to protect a petitioner's
21 statutory and constitutional rights. See *Nguyen v. Scott*, No. 2:25-CV-01398-TMC, 2025
22 WL 2419288, at *27 (W.D. Wash. Aug. 21, 2025) (holding a voluntary promise not to
23 attempt third-country removal unless and until Vietnam denies pending travel
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documents request insufficient.); *Abubaka v. Bondi*, No. C25-1889RSL, 2025 WL 3204369, at *6 (W.D. Wash. Nov. 17, 2025) (holding “a voluntarily promise not to attempt third country removal....is insufficient to protect petitioner’s statutory and due process rights”); *Hambarsonpour v. Bondi*, No. C25-1802-RSM, 2025 WL 3251155, at *4 (W.D. Wash. Nov. 21, 2025) (summarizing case law and enjoining respondents from removing petitioner to third-country without providing “constitutionally and statutorily compliant notice and opportunity to response and contest that removal if he has fear of persecution or torture in that country in reopened removal proceedings.”).

Consistent with Ninth Circuit authority, courts have found that removal to a third country without meaningful notice and an opportunity to be heard is likely unconstitutional. See *Nguyen*, 2025 WL 2419288, at *19 (petitioner “likely to succeed” on due process challenge to third-country removal without notice and reopened proceedings); *J.R. v. Bostock*, 2025 WL 1810210, at *3 (W.D. Wash. June 30, 2025); *Phetsadakone v. Scott*, 2025 WL 2579569, at *4 (W.D. Wash. Sept. 5, 2025); *Baltodano*, 2025 WL 2987766, *3-*4. In *Abubaka*, where the Court considered a final ruling, it reaffirmed these principles and held that ICE may not remove a noncitizen to a third country without notice and an opportunity to respond. *Abubaka*, 2025 WL 3204369, at *9.

Respondents do not address the merits of petitioner’s Due Process claim. For the reasons discussed above, the Court recommends that respondents should be prohibited from removing petitioner to any third country (besides France) without first providing notice and a meaningful opportunity to respond in reopened proceedings.

3. Punitive Nature of Respondents' Third-Country Removal Policy

Petitioner's third claim challenges the July 2025 third-country removal program as punitive in nature and execution, in violation of the Fifth and Eighth Amendments. Dkt. 6 at 17-18. In several recent decisions, the Government's policies and practice of third-country removals has been held unconstitutional -- when petitioner has shown they are likely to face imprisonment (or harm) upon arrival. *See Abubaka*, 2025 WL 3204369, at *8; *Nguyen*, 2025 WL 2419288, at *23-24 (taking judicial notice of public statements by federal officials indicating that deportees sent to third-party countries have been imprisoned and that the practice will continue); *Hambarsonpour*, 2025 WL 3251155, at *5 (agreeing with *Nguyen* and *Abubaka* that third-country removal paired with imprisonment or harm is punitive under *Wong Wing* and *Zadvydas*).

Petitioner asserts the respondents' program for removing individuals, as stated in an ICE memorandum issued July 9, 2025, is unconstitutional because the Government's purpose for this program is punitive. Dkt. 6 at 12-13, 17-19. Petitioner contends:

"The government has arranged for third countries to receive deportees and imprison them on arrival, possibly indefinitely and often in abhorrent conditions. It has selected countries notorious for human rights abuses and instability for third-country removal arrangements. It has targeted individuals with criminal convictions for third-country removals where they will be imprisoned and harmed and publicly broadcast those removals to demonize and dehumanize the individuals subjected to these practices and strike fear in the immigrant community to send a message of retribution and deterrence. Respondents' third-country removal program is more than a publicity stunt. The hundreds of individuals who have already been subjected to it have been banished in foreign prisons upon arrival without charge and often without communication with the outside world, including their families and lawyers. Respondents may not subject Petitioner to its third-country removal program designed to impose a severe punishment on its subjects. Such conduct 'shocks the conscience' under Fifth Amendment

1 substantive due process, is cruel and unusual punishment, and may not be
2 imposed without charge and a judicial trial.”

3 *Id.* at 17-19.

4 If petitioner has evidence to support these claims, he potentially would be entitled
5 to habeas corpus relief — if he can prove punitive intent under *Wong Wing*, 163 U.S. at
6 228.

7 The parties have not asserted that petitioner has any prior criminal record or
8 pending criminal charges. The prospect that he could still be subjected to a third-party
9 country transfer for the purpose of imprisonment or other punitive measures, even
10 though he is held under *civil* immigration authority, raises serious constitutional
11 concerns.

12 Yet petitioner offers no declarations, exhibits, or other evidentiary materials
13 substantiating these assertions. The New York Times article cited in the petition is dated
14 June 25, 2025. Dkt. 6 at 11 (citing Edward Wong, et al., *Inside the Global Deal-Making*
15 *Behind Trump’s Mass Deportations*, N.Y. Times (June 25, 2025),
16 <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html>).
17 Immigration-enforcement policies and practices may evolve. The allegations made by
18 petitioner lack support that is contemporaneous with this litigation, and the record of a
19 June 2025 New York Times article is insufficient to permit factual findings about the
20 purpose, operation, and effects of the current third-country removal immigration policies
21 and practices.

22 Respondents offer no factual rebuttal and no defense to the petitioner’s
23 allegations concerning the third-country removal policy. Their briefing of the issue relies
24 solely on the argument that the *D.V.D.* litigation forecloses all individual habeas
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challenges, which has been rejected in *Nguyen*, *Baltodano*, *Abubaka*, and *Hambarsonpour*. They do not address the merits of petitioner's punitive intent claim or provide evidence regarding the Government's current third-country removal policies and practices, or the status of the July 2025 memorandum alleged by petitioner.

The federal habeas corpus statute, 28 U.S.C. § 2243, allows the Court to “dispose of the matter as law and justice require. . . .” The mandate of habeas corpus is “broad with respect to the relief that may be granted.” *Carafas v. LaValle*, 391 U.S. 234, 239 (1968). Because of the serious constitutional issues identified by petitioner, the Court recommends expanding the record, and potentially holding an evidentiary hearing to determine the purpose, operation, and effects of the July 2025 third-country removal program — or whatever the current third-country removal policies and practices apply to petitioner — as necessary to “dispose of the matter as law and justice require.” See generally, *Hassoun v. Searls*, 1:19-CV-00370 EAW, 2020 WL 408349 (W.D. N.Y. January 24, 2020) (describing the authority for, and parameters of, an evidentiary hearing under 28 U.S.C. § 2241 in the context of an immigration-related habeas corpus petition). The Court may expand the record to determine whether a punitive purpose exists, whether an evidentiary hearing is warranted, and whether additional habeas corpus relief should be granted.

IV. CONCLUSION

For these reasons, the Court recommends the petitioner's federal habeas petition (Dkt. 6) be GRANTED in part. The Court recommends:

1. The Court should order respondents to release petitioner from immigration custody within 24 hours of the District Judge's entry of the final order,

1 subject to the same conditions of petitioner's prior supervised release, and
2 he shall not be re-detained unless an immigration court hearing with
3 appropriate notice and due process is held, see *E.A. T.-B. v. Wamsley*,
4 795 F. Supp. 3d 1316, 1324 (W.D. Wash. August 19, 2025);

5 2. Respondents should be ENJOINED from removing petitioner to any third
6 country (other than France) unless they first provide petitioner with
7 constitutionally and statutorily compliant notice, and a meaningful
8 opportunity to respond and contest such removal in reopened removal
9 proceedings; and

10 3. With respect to petitioner's claim that respondents' current third-country
11 removal policy is punitive, the Court recommends an expansion of the
12 record. If necessary, the district court may conduct an evidentiary hearing
13 to resolve factual issues concerning the purpose, design, and effects of
14 the July 2025 policy – or whatever third country removal policies and
15 practices currently apply to petitioner — and whether the program
16 operates with a punitive purpose or effect under *Wong Wing v. United*
17 *States*, 163 U.S. 228 (1896) and *Zadvydas v. Davis*, 533 U.S. 678 (2001).

18 A proposed order accompanies this Report and Recommendation.

19 The parties have **14 days** from service of this Report and Recommendation to
20 file written objections thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see also*
21 Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for
22 purposes of de novo review by the district judge, *see* 28 U.S.C. § 636(b)(1)(C), and can
23 result in a waiver of those objections for purposes of appeal. *See Thomas v. Arn*, 474
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1 U.S. 140, 142 (1985); *Miranda v. Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (citations
2 omitted). Accommodating the above time limit, the Clerk shall set this matter for
3 consideration on **December 25, 2025**, as noted in the caption.

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5 Dated this 10th day of December, 2025.
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9 Theresa L. Fricke
10 United States Magistrate Judge
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