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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ALIREZA KARIMI Petitioner, v. JEREMY CASEY, et al., Respondents.	Case No.: 25-cv-3116-JO-BJW **RETURN TO PETITION FOR WRIT OF HABEAS CORPUS** Date: November 21, 2025 Time: 9:00 a.m. Courtroom: 4C Judge: Hon. Jinsook Ohta **NO ORAL ARGUMENT REQUESTED**

Petitioner, who has a final order of removal to Afghanistan, has filed a habeas petition seeking release from custody. The Department of Homeland Security (DHS) is working to remove Petitioner as expeditiously as possible pursuant to a valid order by an immigration judge. Thus, Respondents ask the Court to deny Petitioner's habeas petition.

I. Factual Background

Petitioner is a native and citizen of Afghanistan. On or about July 24, 2024, Petitioner was apprehended Petitioner was apprehended with a group of 20 individuals near Otay Mesa, California. *See* Ex. 1, Decl. Ann Ferrari, Deportation Officer.

Petitioner was placed into removal proceedings and served a Notice to Appear (NTA). *See* Ex. 2, NTA. Throughout his removal proceedings, Petitioner was detained in ICE custody pursuant to 8 U.S.C. § 1225(b)(1). On March 11, 2025, an immigration judge (IJ) ordered Petitioner removed from the United States to Afghanistan and granted him Withholding of Removal pursuant to 8 U.S.C. § 1231(b). Ferrari Decl. ¶ 4; Ex. 3, Order.

The IJ's removal order became administratively final and executable when issued, as both parties waived appeal. Since this order, Petitioner has remained detained in ICE custody at Imperial Regional Detention Facility in Calexico, California, pursuant to 8 U.S.C. § 1231(a). Since Petitioner's removal order became administratively final, the ERO Removal Management Division has been actively working as expeditiously as possible to effect Petitioner's removal to a third country, including exploring Petitioner's nexus to other countries in the form of family ties. Ferrari Decl. at ¶ 5. ERO has sent two requests to ERO's Removal Management Division for a third country resettlement, with the last request sent on September 16, 2025. The requests remain pending. Ferrari Decl. at ¶ 6.[1]

II. Argument

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). 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 v. Davis*, 533 U.S. 678, 689 (2001). If an alien is not removed, he is subject to supervision. 8 U.S.C. § 1231(a)(3). The Supreme Court has held that a six-month period of post-removal

[1] Pursuant to this Court's Order requiring Respondents to attach DHS documents and records from the underlying immigration proceedings, Respondents hereby submit redacted excerpts of Petitioner's record of proceedings and A-file as Exhibit 4. However, Petitioner's removal proceedings have concluded and Petitioner is subject to a final order of removal, As a result, records from the underlying removal proceedings are of limited relevance in determining whether detention is lawful under 8 U.S.C. § 1231(a).

detention constitutes a "presumptively reasonable period of detention." *Id.* at 683. 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." *Id.* at 701.

In *Zadvydas*, the Supreme Court held: "[T]he habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely, *assuring the alien's presence at the moment of removal*." *Id.* at 699 (emphasis added). In so holding, the court recognized that detention is presumptively reasonable pending efforts to obtain travel documents, because the noncitizen's assistance is needed to obtain the travel documents, and a noncitizen who is subject to an imminent, executable warrant of removal becomes a significant flight risk, especially if he or she is aware that it is imminent.

The court also held that the detention *could* exceed six months: "This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing and that the noncitizen has the initial burden of proving that removal is not significantly likely." *Id.* The Ninth Circuit has emphasized, "*Zadvydas* places the burden on the alien to show, after a detention period of six months, that there is 'good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

Here, Petitioner's removal order became final on March 11, 2025, and he has no legal right to remain in the United States. He has a temporary right not to be repatriated to Afghanistan, but he has no right not to be resettled in a third country. ICE has long-

standing authority to remove noncitizens and resettle them in third countries where removal to the country designated in the final order is "impracticable, inadvisable, or impossible." 8 U.S.C. § 1231(b)(2)(E)(vii); *see also* 8 U.S.C. § 1231(b) (outlining framework for designation). Accordingly, noncitizens like Petitioner, who have received protection against removal to the designated country (either withholding of removal under 8 U.S.C. § 1231(b)(3) or CAT protection), may be removed and resettled in third countries.

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

> (i) The country from which the alien was admitted to the United States.
> (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.
> (iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.
> (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 per Section 1231(b)(2)(D), the Secretary may, in her discretion, remove the noncitizen to any country listed in subparagraphs (E)(i) through (E)(vi). Since Petitioner's removal order became administratively final, ICE Enforcement and Removal Operations (ERO) has been working to effect Petitioner's removal to a third country. As outlined in the Petition, ICE has conducted multiple detailed interviews, including about his "travel history, religious beliefs, and whether he has lawful status in another country." Petition at ¶ 28.

It is well settled that "the public interest in enforcement of the immigration laws is significant." *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir.

1981) (collecting cases); *see Nken*, 556 U.S. at 436 ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permits and prolongs a continuing violation of United States law.") (simplified). And ultimately, "the balance of the relative equities 'may depend to a large extent upon the determination of the [movant's] prospects of success.'" *Tiznado-Reyna v. Kane*, Case No. C 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at * 4 (D. Ariz. Dec. 13, 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987).

To the extent Petitioner asserts regulatory violations, those alleged violations merge with his statutory and *Zadvdas* claims. As an initial matter, Petitioner has not established a constitutional violation based on alleged regulatory violations. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014) ("The mere failure of an agency to follow its regulations is not a violation of due process."); *United States v. Tatoyan,* 474 F.3d 1174, 1178 (9th Cir.2007) ("Compliance with . . . internal [customs] agency regulations is not mandated by the Constitution") (internal quotation marks omitted); *United States v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978) (holding that even assuming that the judge had violated the rule by failing to inquire into the alien's background, any error was harmless because there was no showing that the petitioner was qualified for relief from deportation). Importantly, the only potential remedy in a case like this[2] is release, and even then, ICE has authority to impose conditions of release. *See Doan v. INS*, 311 F.3d 1160, 1162 (9th Cir. 2002) ("We therefore conclude that there is no merit to appellant's contention that because a bond is not expressly listed as a condition in the statute, imposition of any bond as a condition of supervised release is unlawful.").If released on the basis that his detention is currently lawful, Petitioner

[2] Some courts have afforded a bond hearing to a noncitizen who has been detained for a prolonged period of time under 8 U.S.C. § 1231(a) during withholding-only proceedings, after reinstatement of an order of removal. *See, e.g., Hilario M.R. v. Warden, Mesa Verde Det. Ctr.*, No. 24-CV-00998-EPG-HC, 2025 WL 1158841, at *1 (E.D. Cal. Apr. 21, 2025) (citing *Juarez v. Choate*, No. 24-cv-00419-CNS, 2024 WL 1012912 (D. Colo. Mar. 8, 2024)).

would remain "subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3).

Here, as explained above, an immigration judge has entered a final order of removal. Petitioner has no legal right to stay within the United States, and the public interest in the prompt execution of removal orders is significant. The balancing of equities and the public interest thus weigh against granting relief in this case.

III. CONCLUSION

For the foregoing reasons, the Court should deny Petitioner's request for injunctive relief and dismiss the petition.

DATED: November 19, 2025

Respectfully submitted,

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