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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 **ALIREZA KARIMI**
12 **Petitioner,**
13 **v.**
14 **JEREMY CASEY et al.,**
15 **Respondents.**

Case No.: 25-cv-03116-JO-BJW

**TRAVERSE IN SUPPORT
OF PETITION FOR WRIT
OF HABEAS CORPUS**

1 has good reason to believe there are additional documents that are of
2 relevance to this matter that he does not have access to and is attaching as
3 exhibits to this filing the few he is privy to, for the Court's consideration.
4 *See* Exhibits A-C.

5 ARGUMENT

6 **1. The government has not met its burden with clear and convincing evidence.**

7 A statute that allows for indefinite detention would pose "a serious
8 constitutional threat." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). For that
9 reason, the Supreme Court has interpreted the federal detention statute
10 applicable here, 8 U.S.C. § 1231(a)(6), as containing an implicit limit. *Id.* at
11 689. In *Zadvydas*, the Court held that detention under this category is
12 "presumptively reasonable" for six months after a final order becomes
13 administratively final. *Id.* at 701.

14 Once the six-month period has elapsed, courts must use a burden-
15 shifting framework to decide whether continued detention remains
16 authorized. If a petitioner provides "good reason to believe that there is no
17 significant likelihood of removal in the reasonably foreseeable future," the
18 burden shifts to the government. *Id.* To rebut such a showing, the
19 government must "respond with evidence" to prove there is a "significant
20 likelihood of removal in the reasonably foreseeable future." *Id.* If the
21 government cannot do so, the petitioner must be released from custody. *Id.*

22 **A. Mr. Karimi has provided good reason to believe he is unlikely to be removed in the reasonably foreseeable future.**

23 The "good reason to believe" standard is a relatively forgiving one.
24 "A petitioner need not establish that there exists no possibility of removal."
25 *Freeman v. Watkins*, No. CV B:09-160, 2009 WL 10714999, at *3 (S.D.
26 Tex. Dec. 22, 2009). Nor does "[g]ood reason to believe" . . . place a burden
27

1 upon the detainee to demonstrate no reasonably foreseeable, significant
2 likelihood of removal or show that his detention is indefinite; it is something
3 less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319,
4 at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401 F. Supp. 3d 420,
5 430 (W.D.N.Y. 2019)).

6 Mr. Karimi has made such a good showing. His removal order
7 became final on March 11, 2025. More than six months later, the
8 government has yet to identify to which country it seeks to remove him. The
9 government has provided no timeline for carrying out Mr. Karimi’s removal
10 and provided no information as to actual progress made towards removal.
11 And less than a month ago, his deportation officer told him that he is being
12 detained “in limbo”—precisely the sort of detention deemed constitutionally
13 suspect—which is in effect a concession that he will not be removed in the
14 reasonably foreseeable future. Pet. Decl. at ¶ 20.

15 **B. The government’s inability to demonstrate that removal is**
16 **imminent and that its efforts will bear fruit is fatal.**

17 The only evidence the government offers are vague assertions that it is
18 “working as expeditiously as possible to *locate* a third country” and that it
19 has sent “two requests to ERO’s Removal Management Division for a third
20 country resettlement, with the last request sent on September 16, 2025.”
21 ECF No. 10-1 at ¶¶ 5-6 (emphasis added). Under substantially similar
22 circumstances, a court in this district has found such assertions to be lacking
23 and ordered a petitioner’s release for these very reasons. *Conchas-Valdez v.*
24 *Casey*, No. 25-cv-02469-DMS-JLB, 2025 WL 2884822, at *3 (S.D. Cal.
25 Oct. 6, 2025) (granting petition and ordering petitioner’s release where
26 government failed to name a country of removal or identify any progress
27 made towards removal and thus was unable to show “that their efforts will
28

1 bear fruit”) (quoting *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL
2 78984, at *5 (W.D.N.Y. Jan 2, 2019).

3 Essentially, if the Court has “no idea of when it might reasonably
4 expect [Petitioner] to be [removed], this Court certainly cannot conclude that
5 his removal is likely to occur—or even that it might occur—in the
6 reasonably foreseeable future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-
7 MTP, 2020 WL 4880158, at *3 (S.D. Miss. July 7, 2020), *report and*
8 *recommendation adopted*, 2020 WL 4876859 (S.D. Miss. Aug. 19, 2020)
9 (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019)).

10 And courts have routinely granted habeas petitions where, as here, the
11 government does not establish *Zadvydas*’s timing element. *See, e.g., Balza v.*
12 *Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17,
13 2020), *report and recommendation adopted*, 2020 WL 6064881 (W.D. La.
14 Oct. 14, 2020) (“[A] theoretical possibility of eventually being removed
15 does not satisfy the government’s burden[.]”); *Eugene v. Holder*, No.
16 408CV346-RH WCS, 2009 WL 931155, at *4 (N.D. Fla. Apr. 2, 2009)
17 (“While Respondents contend Petitioner *could* be removed to Haiti, it has
18 not been shown that it is significantly likely that Petitioner *will* be removed
19 in the *reasonably foreseeable future.*”); *Abdel-Muhti v. Ashcroft*, 314 F.
20 Supp. 2d 418, 426 (M.D. Pa. 2004) (granting petition because even if
21 “Petitioner’s removal will ultimately be effected . . . the Government has not
22 rebutted the presumption that removal is not likely to occur in the reasonably
23 foreseeable future”); *Seretse-Khama v. Ashcroft*, 215 F. Supp. 2d 37, 50
24 (D.D.C. 2002) (granting petition where the government had not provided
25 any “evidence . . . that travel documents will be issued in a matter of days or
26 weeks or even months”).

27
28

1 Here, the government’s evidence is insufficient to rebut Mr. Karimi’s
2 showing, as it must meet its burden through clear and convincing evidence.
3 *See Juarez v. Choate*, No. 1:24-cv-00419-CNS, 2024 WL 1012912, at *8 (D.
4 Colo. Mar. 8, 2024)) (providing that the government must rebut a
5 petitioner’s showing by “clear and convincing evidence”). Given the lack of
6 evidence that removal to a third country will be successful and is imminent,
7 Respondent has failed to meet its burden and this Court must order Mr.
8 Karimi’s release from detention.

9 **2. The government fails to adequately address arguments that its**
10 **actions violate due process and the regulations.**

11 **A. Mr. Karimi has no criminal history despite the government’s**
12 **unsupported claims to the contrary as justification for his**
13 **continued confinement.**

14 Mr. Karimi has no criminal record. Pet. Decl. at ¶¶ 11, 22. DHS
15 previously filed a Form I-213 which confirms that Mr. Karimi has no known
16 criminal history. Exh. A at 2. Yet ICE issued Mr. Karimi a Decision to
17 Continue Detention baselessly indicating that he is deemed a flight risk
18 because of a supposed criminal record. Exh. B at 4. The government offers
19 no evidence to corroborate that allegation or support that determination,
20 providing yet another reason for this Court to find Mr. Karimi’s detention
21 unjustified and unlawful.

22 Nonetheless, even assuming, *arguendo*, that he has a criminal history
23 that would render him a flight risk, Mr. Karimi’s liberty interests outweigh
24 the government’s interest in continuing his confinement. In *Zadvydas* the
25 Court held that danger or flight risk are not adequate grounds for detaining
26 an individual when there is no reasonable likelihood of removal in the
27 reasonably foreseeable future. The two petitioners in *Zadvydas* both had
28 significant criminal history—Mr. Zadvydas himself had “a long criminal

1 record, involving drug crimes, attempted robbery, attempted burglary, and
2 theft,” as well as “a history of flight, from both criminal and deportation
3 proceedings.” *Zadvydas*, 533 U.S. at 684. The other petitioner in that case
4 was “involved in a gang-related shooting [and] convicted of manslaughter.”
5 *Id.* at 685. The government argued that both men could be detained
6 regardless of their likelihood of removal, because they posed too great a risk
7 of danger or flight. *Id.* at 690-91.

8 The Supreme Court rejected that argument. The Court, while
9 appreciating the seriousness of the government’s concerns, found that the
10 petitioners’ liberty interests outweighed the government’s concerns. *Id.* at
11 691. The Court had never countenanced “potentially permanent” “civil
12 confinement,” based only on the government’s belief that the person would
13 misbehave in the future. *Id.* Here, the government’s concerns regarding
14 potential flight risk are even less relevant given its failure to substantiate its
15 basis for such a concern. Return at 3. Moreover, the government
16 acknowledges that such a concern could easily be mitigated through
17 conditions of supervision upon release, which undermines its position that
18 continued confinement is necessary. *Id.* at 4-5. Such conditions are baked
19 into the statutory scheme and addressed in *Zadvydas*. 8 U.S.C. § 1231(a)(3);
20 533 U.S. at 700 (“[O]f course, the alien’s release may and should be
21 conditioned on any of the various forms of supervised release that are
22 appropriate in the circumstances, and the alien may no doubt be returned to
23 custody upon a violation of those conditions.”).

24 **B. The government’s deprivation of Mr. Karimi’s opportunity to**
25 **be heard in a meaningful manner violates the regulations and**
26 **his due process rights.**

27 ICE’s Decision to Continue Detention was executed on June 2, 2025,
28 but not served on Mr. Karimi until September 5, 2025. Exh. B at 6; Pet.

1 Decl. at ¶ 12. ICE must provide Mr. Karimi timely notices under 8 C.F.R.
2 § 241.4(d), and the opportunity to demonstrate that he is not a danger or
3 flight risk pursuant to 8 C.F.R. § 241.4(d)(1), which it failed to do. *See also*
4 8 C.F.R. § 241.4(k) (timing of reviews and notice to detainees). Respondent
5 unconvincingly argues that such regulatory violations are not due process
6 violations. Return at 5.

7 However, when there is indication that the government failed to
8 follow the legally required procedures to determine that Mr. Karimi should
9 remain in custody, as demonstrated above, the government is shown to
10 violate a core tenet of due process, which ensures “the opportunity to be
11 heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v.*
12 *Eldridge*, 424 U.S. 319, 333 (1976). Serving Mr. Karimi with a decision to
13 continue his confinement 95 days after its issuance deprived him of a
14 meaningful and timely opportunity to challenge the government’s
15 determination, and is a clear violation of due process.

16 Lastly, the government offers no evidence that it conducted any
17 custody reviews outside of a citation to Mr. Karimi’s own Petition. *See*
18 Return at 4 (Respondent asserting that ICE conducted multiple detailed
19 interviews without actually filing with this Court evidence of such
20 interviews in apparent disregard of this Court’s Order that it do so.)¹
21 Deportation Officer Ann Ferrari, who provided this Court with a declaration,
22 could not even attest to having done so. *See Ferrari Decl.* at 1-3.

23 _____
24 ¹ ECF. No. 2 (Court ordering Respondent to file a “complete set of
25 Petitioner’s immigration records necessary for adjudication of this habeas
26 petition, including all Department of Homeland Security records,
27 immigration court documents, arrest or custody records, and any other
28 materials pertaining to Petitioner’s detention, processing, or removal
proceedings”).

CONCLUSION

The government argues that it has the legal authority to continue to detain Mr. Karimi because it intends to remove him at some unknown date in the future to some unknown country. In actuality, ICE’s prolonged and indefinite detention of Mr. Karimi violates the INA, DHS regulations and due process. Prolonged civil detention violates due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Zadvydas* at 690-91; *Kansas v. Hendricks*, 521 U.S. at 346- 364-69 (1997); *United States v. Salerno*, 481 U.S. 739, 750-52 (1987). As demonstrated above, such protections are so clearly lacking here that this Court’s intervention is required.

For these reasons, the Court should grant the petition and order Mr. Karimi’s immediate release.

Dated: November 19, 2025

Respectfully submitted,

By: /s/ Zohaile Kakavand
Zohaile Kakavand
Casa Cornelia Law Center
Pro Bono Counsel for Petitioner

TABLE OF EXHIBITS

- Exhibit A:** Form I-213
- Exhibit B:** Decision to Continue Detention
- Exhibit C:** Counsel’s Correspondence with ICE and DHS

CERTIFICATE OF SERVICE

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I hereby certify that on November 19, 2025, I electronically filed the foregoing and all attachments with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record at the following email addresses:

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