

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
NOV 17 2025	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY:	MAM DEPUTY

~~MEMORANDUM~~

1 Alien No. [REDACTED]

2 Nevada Southern Detention Center
3 2190 East Mesquite Avenue
4 Pahrump, Nevada 89060

5
6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9
10 ~~MEMORANDUM~~

11 -Petitioner, *Pro Se*,

12 v.

13 THE UNITED STATES OF AMERICA,
14 Kristi NOEM, in her Official Capacity,
15 Secretary of the Department of Homeland Security

16 Pamela J. BONDI, in her Official Capacity,
17 Attorney General, Department of Justice,

18 Kerri Ann QUIHUIS, in her Official Capacity,
19 ICE Field Office Director, Detention and Removal,
20 Las Vegas, Nevada (ICE Local)

21 Michael BERNACKE, in his Official Capacity,
22 Field Office Director, Salt Lake City Field Office,
23 U.S. Immigration and Customs Enforcement,

24 Patrick J. LECHLEITNER, in his Official Capacity,
25 Acting Director, Immigration & Customs Enforcement

26
27 John MATTOS, in his Official Capacity,
28 Warden of Immigration Detention Facility,
29 Nevada Southern Detention Center;

30 -Respondents.
31

) Case No. [REDACTED]
) INS No. A [REDACTED]

) Custody Status: **DETAINED**

) **Petition for Writ of Habeas**
) **Corpus Pursuant to**
) **28 U.S.C. § 2241**

2:25-cv-02286-CDS-BNW

PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

COMES NOW MERVEN TOOY is the Petitioner, appearing *Pro Se*, and hereby respectfully petitions this Honorable Court for a Writ of Habeas Corpus. Alternatively, Petitioner seeks emergency injunction relief ordering his immediate release from ICE custody.

The Petition of MERVEN TOOY respectfully shows:

INTRODUCTION

1. Petitioner, MERVEN TOOY, petitions this Court for a Writ of Habeas Corpus to remedy Petitioner's indefinite detention by Respondent's. Petitioner submits this Petition for a Writ of Habeas Corpus. Petitioner is challenging his continued detention by ICE, and not his removal order.
2. Petitioner is currently being physically detained under the full custody of the Department of Homeland Security, Immigration and Customs Enforcement ("DHS/ICE") at the Nevada Southern Detention Center ("NSDC") in Pahrump, Nevada.
3. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), non-citizens cannot be detained indefinitely if the government is unable to carry out their removal. Instead, detention after a final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* establishes a presumption that detention after a final order of removal was permissible for six months.
4. This Court should hold that detention after a final order may be unlawful even when six months have not passed, particularly if it is clear that the United States will not be able to effect a non-citizen's removal. But after that six-month period, once a non-citizen 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

1 rebut that showing." And the longer a non-citizen has been detained, the stronger the
2 government's showing must be.

3 5. Petitioner is entitled to release under the framework of *Zadvydas* unless the government
4 promptly demonstrates that there is a significant likelihood of removal in the reasonably
5 foreseeable future.

6 6. Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243 to
7 order the Respondents to file a return within three days, unless they can show good cause
8 for additional time. *See* 28 U.S.C. § 2243 (stating that an order to show cause why a
9 petition for a writ of habeas corpus should be denied is returnable "within three days
10 unless for good cause additional time, not exceeding twenty days, is allowed").

11 7. In order to permit full judicial review of the claims herein and requested relief, Petitioner
12 respectfully requests that the Court order Respondents not to transfer Petitioner outside
13 the jurisdiction of this Court pending consideration of this Petition.

14 **CUSTODY**

15 8. Petitioner is in the physical custody of the Respondents and U.S. Immigration and
16 Customs Enforcement ("ICE"). Petitioner is detained in the United States at the Nevada
17 Southern Detention Center ("NSDC") in Pahrump, Nevada, where ICE has contracted
18 with "NSDC" to house immigration ICE detainees such as Petitioner. Petitioner is under
19 the direct control of Respondent and their agents. Petitioner was been detained since
20 06/23/2025, to date.

21 **PARTIES**

22 9. Petitioner, a 43-year-old male, born in 5090 and came to the US as a refugee. Petitioner
23 was first taken into ICE custody on 05/5/2025 and has remained in ICE custody
24 continuously since that date. Petitioner was ordered removed on 03/04/2020 Petitioner

1 did not appeal from the removal order, thereby making the removal order final.

2 10. Respondent, UNITED STATES OF AMERICA, issued pursuant to 5 U.S.C. § 703, in
3 which the Administrative Procedures Act provides “[i]f no special statutory review
4 proceeding is applicable, the action for judicial review may be brought against the United
5 States, the agency by its official title, or the appropriate officer”.

6 11. Respondent Kristi NOEM is sued in her official capacity as the Secretary of the
7 Department of Homeland Security (herein after referred to as “DHS”). In her official
8 capacity she has the responsibility for administration and enforcement of the immigration
9 laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. 296, 116
10 Stat. 2135 (Nov. 25, 2002). *See Armentero v. INS*, 340 F.3d 1058 (9th Cir. 2003).

11 12. Respondent Pamela J. BONDI is sued in her official capacity as the Attorney General of
12 the United States. She has responsibility for the administration and enforcement of the
13 immigration laws pursuant to 8 U.S.C. § 1103, and Immigration and Nationality Act §
14 103. As the “INA” has not been amended to reflect the designation of the Secretary of
15 the DHS as the administrator and enforcer of the immigration laws. Even more,
16 Respondent Pamela J. BONDI is sued in her official capacity to the extent that 8 U.S.C.
17 § 1102 gives her the authority to detain Petitioner. *See Armentero v. INS*, supra.

18 13. Respondent Kerri Ann QUIHUIS is sued in her official capacity as ICE Field Office
19 Director, Detention and Removal, DHS at Las Vegas, Nevada (ICE Local), who is
20 responsible for the day-to-day operation of detaining and removing aliens in Las Vegas,
21 Nevada.

22 14. Respondent, Michael BERNACKE is the Field Office Director responsible for the Salt
23 Lake City Field Office of ICE Enforcement and Removal Operations, which has
24 administrative jurisdiction over Petitioner’s case. He is a legal custodian of Mr. [REDACTED]

1 ~~XXXXXXXXXX~~ and is named in his official capacity.

2 15. Respondent, Patrick J. LECHLEITNER is Acting Director of ICE. As the head of ICE,
3 an agency within the U.S. Department of Homeland Security that detains and removes
4 certain noncitizens, Respondent Patrick J. LECHLEITNER is a legal custodian of Mr.

5 ~~XXXXXXXXXX~~ He is named in his official capacity.

6 16. Respondent, John MATTOS, Warden of Nevada Southern Detention Center, where
7 Petitioner is currently detained under the authority of ICE, alternatively may be
8 considered to be Petitioner's immediate custodian.

9 17. Respondents are the legal custodian of Petitioner and are named in their official capacity.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 18. Petitioner need not exhaust his administrative remedies. The statute in question, 8 U.S.C.
12 § 1231(a)(6), has no exhaustion requirement. Exhaustion is required only when Congress
13 specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In all other
14 instances, "sound judicial discretion governs." *Id.* This Court should not require
15 Petitioner to exhaust his administrative remedies.

16 19. In this case, Petitioner is challenging the constitutionality of the procedures by which
17 ICE reviews the custody status of aliens who cannot be removed within six months, and
18 whose removal is not significantly likely to occur in the reasonably foreseeable future.
19 The administrative remedy is inadequate to address these constitutional grounds for
20 recovery.

21 **JURISDICTION**

22 20. This Nevada District Court holds proper jurisdiction under the Suspension Clause, U.S.
23 Const. art. I § 9, cl. 2. This action arises under the United States Constitution, the
24 Immigration and Nationality Act of 1952, as amended (herein after referred to as "INA"),

1 8 U.S.C. § 1101 *et. seq.*, and the Administrative Procedures Act (herein after referred to
2 as "APA"), 5 U.S.C. §§ 701 *et. seq.*

3 21. This Honorable U.S. District Court for the District of Nevada has proper Habeas Corpus
4 jurisdiction pursuant to 28 U.S.C. §§ 2241 *et. seq.*; Article 1, Clause 2 of the United States
5 Constitution (herein referred to as "Suspension Clause"); and the Common Law. This
6 Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331, as Petitioner is
7 presently in custody under color of the authority of the United States, and such custody
8 is in violation of the Constitution, laws, and/or treaties of the United States. This Court
9 may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, 28
10 U.S.C. § 2241, 5. U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

11 **VENUE**

12 22. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(c) because the Respondents
13 are employees or officers of the United States, acting in their official capacity, and an
14 agency of the United States. Venue is additionally proper in this U.S. District Court
15 because Petitioner is detained in the District of Nevada, and pursuant to *Braden v. 30th*
16 *Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973). A substantial part of
17 the events giving rise to the claims in this action took place within this District.

18 **STATEMENT OF FACTS**

19 23. Petitioner was born ~~South~~ and, through his family, entered the United States and received
20 refugee status based on religious grounds. Petition was taken into ICE custody while
21 driving away from his residence.

22 24. On March 4, 2020 an Immigration Judge in Colorado ordered Petitioner removed from
23 the United States. Yet, DHS has not removed him from the US, but rather released him
24 from ICE detention. There is no indication that Petitioner will be removed in the future.

1 25. Regarding Appeals, Petitioner did not appeal the removal order thus, making it a final
2 order of removal on 03/04/2020.

3 26. To date, however, ICE has been unable to remove Petitioner to his home country, [REDACTED]
4 and there is no indication that ICE will execute removal in the reasonably foreseeable
5 future. In addition, ICE has been unable to remove Petitioner to any other country.

6 27. Petitioner has cooperated fully with all of ICE's efforts to remove Petitioner from the
7 United States. Petitioner has cooperated with ICE in the following ways: Petitioner has
8 fully complied with ICE's directives and has taken several steps in contacting the
9 Consulate and Embassy for [REDACTED] but to no avail.

10 28. Although Petitioner is detained, ICE conducted a 90-Day custody review on September,
11 2025, where custody release was denied followed by an order continuing his detention.

12 29. In this case, ICE has been unable to remove Petitioner from the United States. ICE is
13 unlikely to remove Petitioner in the reasonably foreseeable future to [REDACTED]. No other
14 country has accepted Petitioner. This case warrants an emergency injunction relief.

15 30. Regarding Petitioner's detention, he has been in ICE custody since June 23, 2025 and
16 there is no clear indication that ICE will remove Petitioner.

17 31. Petitioner was arrested by ICE and has been detained. Importantly, ICE is unable to carry
18 out the removal order. Petitioner's assigned Consulate has not issued travel documents
19 and there is no certainty as to when, if ever, such travel documents will be issues.

20 32. If released, Petitioner will reunite with his family. In particular, his fiancé is waiting for
21 his release because they are engaged and had plans to arrange their wedding. Petitioner's
22 fiancé is struggling while he is detained.

23 33. When combined with the significant soon-to-be husband role and the emotional toll of
24 breaking up the family unit, the circumstances are sufficient to constitute hardships.

ARGUMENT

1
2
3
4
5
34. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA") §§ 101-507, 8 U.S.C. § 1101-1537, amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-1570.

6
7
8
9
35. Petitioner's custody is in violation of the Constitution, laws, and/or treaties of the United States. *See Zadvydas*, 566 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (habeas corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).

10
11
12
13
14
15
16
17
18
19
36. The Due Process clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). That Court noted, "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem." *Id.*; *see also, Plyer v. Doe*, 457 U.S. 202, 210 (1982) ("Aliens, even aliens whose presence in this country is unlawful, have long been recognized as 'persons' guaranteed due process of law by the Fifth and Fourteenth Amendments.").

20
21
22
23
24
37. Under 8 U.S.C. § 1231(a)(2), non-citizens subject to final orders of removal "shall" be detained during the first 90 days—the "removal period"—and they "shall" be removed during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), the government "may" continue detention beyond the 90-day removal period if a non-citizen falls within certain broad categories of removability or is determined "to be a risk to the community

1 or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

2 38. In *Zadvydas*, the Supreme Court construed 8 U.S.C. § 1231(a)(6) to authorize detention
3 only where it is significantly likely that removal will occur in the reasonably foreseeable
4 future, in order to avoid the serious due process concerns that would be presented by
5 permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. at CITE. After
6 a non-citizen meets his or her initial burden to show that no such likelihood of removal
7 exists, the burden shifts to the Government to "respond with evidence sufficient to rebut
8 [the alien's] showing." *Id.* at 701.

9 39. Courts have rejected conclusory claims by ICE agents which claim, without submitting
10 concrete factual information about scheduled flights or repatriation agreements, that
11 removal is imminent. "[A] theoretical possibility of eventually being removed does not
12 satisfy the government's burden once the removal period has expired and the petitioner
13 establishes good reason to believe his removal is not significantly likely in the reasonably
14 foreseeable future." *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D.
15 La. Sept. 17, 2020) (internal quotation marks and citation omitted).

16 40. "[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated,
17 [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it
18 might occur—in the reasonably foreseeable future." *Id.* at *5 (internal quotation marks
19 and citation omitted). *See also, Gomez Barco v. Witte*, No 6:20-CV-00497, 2020 WL
20 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained
21 longer than six months because ICE had not been able to secure necessary travel
22 documents, noting that the ICE officer "clearly has no factual basis for his 'belief that
23 there is no foreseeable impediment to Petitioner's removal or that her removal is
24 imminent," and that there was no foundation for the "expectation" that the COVID-19

1 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-
2 00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same).¹ In granting Ms. Balza's
3 release, the court considered and rejected a conclusory declaration by a local ICE
4 Assistant Field Officer that removal was imminent. *Id.* at *5.

5 41. In *Alexis v. Smith*, the petitioner, Mr. Alexis, had been in detention for almost a year and
6 subject to a removal order for over a year. An ICE official testified to an informal
7 agreement that permitted removals but acknowledged that there were far fewer removals
8 to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with
9 identity documents and it was unknown when that would be resolved. The magistrate did
10 not credit ICE's vague statements that it was "endeavoring to rectify the issue" and
11 concluded there was no end in sight for detention, and recommended release. The District
12 Court Judge agreed and ordered released. ICE then released Mr. Alexis on an Order of
13 Supervised Release and moved to get the judgment vacated on mootness, which it was.
14 However, this does not invalidate the reasoning and conclusions of the Magistrate Judge
15 and District Court Judge on this subject, and this case is still informative and persuasive
16 to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247
17 (W.D. La. Aug. 3, 2011), report and recommendation adopted, No. CIV.A. 11-0309, 2011

¹ Other district courts in the Fifth Circuit and elsewhere have similarly granted habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting habeas relief to petitioner detained for approximately sixteen months due to lack of diplomatic relations with Venezuela); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703 (S.D. Tex. 2020) (granting habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond to a travel document request for more than seven months).

1 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-00309 2011 WL 13386020
2 (W.D. La. Sept. 15, 2011).

3 42. Courts in the Louisiana District have—pursuant to *Zadvydas*—released individuals who
4 have been detained for over six months. *See, e.g., Gomez Barco*, 2020 WL 7393786
5 (ordering release of an immigrant detainee who was a native and citizen of Venezuela
6 who was detained longer than six months because ICE had not been able to secure
7 necessary travel documents); *Balza*, 2020 WL 6143643, at *5 (ordering release of
8 petitioner and noting that "[a]fter more than a year of detention, Petitioner's removal need
9 not necessarily be imminent, but it cannot be speculative") (internal quotation marks
10 omitted). Under *Zadvydas*, courts have found that there is no significant likelihood of
11 removal and granted relief where:

- 12
- 13 ▪ No country will accept the petitioner. *See, e.g., Jabir v. Ashcroft*, No. 03-2480,
14 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner
15 detained for more than fourteen months after numerous countries refused to
16 repatriate the petitioner).²
- 17

18 / / /
19 / / /
20 / / /
21 / / /
22 / / /

² *See also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *4 (W.D. N.Y. Jan. 2, 2019) (ordering release of petitioner detained fourteen months after petitioner showed "that the countries with which he has any affiliation will not accept him"); *Yusupov v. Love*, No. 4:CV-06-1804, 2007 WL 5063231 (M.D. Pa. Jan. 12, 2007); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D. Pa. 2004) (ordering release of petitioner detained approximately two years after refusal of several countries to accept petitioner).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

- The petitioner's country of origin refuses to issue a travel document. *See, e.g., Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas relief to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermine v. Dir. of Immigr. & Customs Enft.*, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad's refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner detained nineteen months because Nigeria refused to issue travel documents due to petitioner's HIV status).³

- There is no removal agreement between the United States and a country. In these scenarios, courts have found that the lack of a formal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning government support a finding that there is no significant likelihood of removal. *See, e.g., Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of petitioner's parents was not Ethiopian).⁴

///

///

///

³ See also *Ka v. Bureau of Immigr. & Customs Enft.*, No. B-07-197, 2008 WL 11462867, at *8 (S.D. Tex. June 24, 2008) (ordering release of petitioner detained twelve months after Senegal "refused to issue Ka a travel document because he d[id] not have proper identity documentation"); *Moreira v. Gonzales*, No. CIVA CV05-588 A, 2006 WL 3861972 (W.D. La. Nov. 2, 2006) (granting habeas relief to petitioner detained for three years because Cape Verde advised that it would not accept the petitioner for repatriation); *Khan v. Gonzales*, 481 F. Supp. 2d 638 (W.D. Tex. 2006).

⁴ See also *Gomez Barco*, 2020 WL 7393786; *Islam v. Kane*, No. CV-11-515-PHX-PGR (LOA), 2011 WL 4374226, at *3 (D. Ariz. Aug. 30, 2011) (ordering release of petitioner detained ten months where petitioner presented evidence that Bangladesh "is one of fifteen countries identified by ICE as least likely to issue travel documents"); *Carreno*, 2020 WL 8366735; *Simoza Rangel v. Gillis*, No. 5:19-cv-118-DCB-MTP, 2020 WL 7223258 (S.D. Miss. Sept. 2, 2020) (granting habeas relief to petitioner detained for sixteen months due to a lack of diplomatic relations with Venezuela); *Abduelle v. Gonzales*, 422 F. Supp. 2d 774 (W.D. Tex. 2006) (concluding that the petitioner met the burden to show removal was not reasonably foreseeable after being detained for more than one year when an injunction restricted the government's ability to remove the petitioner to Somalia).

- 1 ▪ There is no response from a country designated for removal or a significant delay
2 in receiving a response. *See, e.g., Gonzalez-Rondon v. Gillis*, 5:19-cv-109-DCB-
3 MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to
4 petitioner detained thirteen months where there was no response from Venezuelan
5 officials).⁵
- 6
- 7 ▪ ICE fails to take action to secure travel documents for a prolonged period. *See,*
8 *e.g., Senor*, 401 F. Supp. 3d at 430-31 (granting habeas relief after ICE initially
9 requested travel documents but where "there [w]as no indication from the record
10 that anyone ha[d] taken any further action in the eight months since that time . . .
11 to facilitate Senor's receipt of the necessary travel documents").⁶
- 12

13 43. As the length of detention grows, the period of time that would be considered the
14 "reasonably foreseeable future" shrinks. *See, e.g., Zadvydas*, 533 U.S. at 701 (stating that
15 as the length of time in detention grows "what counts as the 'reasonably foreseeable
16 future' conversely would have to shrink"); *Senor*, 401 F. Supp. 3d at 430 ("[T]he passage
17 of time combined with' the 'government [being] no closer to . . . repatriating [a detainee]
18 than they were once they first took him into custody' [is] sufficient to meet that 'initial
19 burden.'"); *Lawrikow*, 2009 WL 2905549, at *12. Here, Respondents have not removed
20 Petitioner to Iran and there is no likelihood that his removal will occur in the future.

⁵ *See also Sharifi*, 2020 WL 7379211; *Aung v. Barr*, No. 20-CV-681-LJV, 2020 WL 451465 (W.D. N.Y. Aug. 10, 2020); *Edwards v. Barr*, No. 4:20cv350-WS-MAF, 2020 WL 6747737 (N.D. Fla. Oct. 14, 2020); *Raul v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319 (W.D. N.Y. July 14, 2020); *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560 (W.D. Tex. Nov. 3, 2020); *Singh v. Whitaker*, 362 F. Supp. 3d 93 (W.D. N.Y. 2019); *Butt v. Holder*, No. CA 08-0672-CG-C, 2009 WL 1035354 (S.D. Ala. Mar. 19, 2009) (holding that petitioner met his initial burden where he was held in ICE custody for more than ten months after the issuance of his removal order with no indication from the Pakistan Embassy that travel documents would be issued); *Lawrikow v. Kollus*, No. CV-08-1403-PHX-GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009); *Reid v. Crawford*, No. 06-02436-PHX-JWS (MEA), 2007 WL 1063413 (D. Ariz. Jan. 31, 2007); *Gui v. Ridge*, No. 3CV031965, 2004 WL 1920719 (M.D. Pa. Aug. 13, 2004); *Shefqet v. Ashcroft*, No. 02 C 7737, 2003 WL 1964290 (N.D. Ill. Apr. 28, 2003).

⁶ *See also Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012) (ordering petitioner's release where the government failed "to provide any documentation of efforts . . . to effectuate removal . . . [for] nearly six months").

1 44. Petitioner's continued detention is unlawful, and Petitioner is unlikely to be removed in
2 he reasonably foreseeable future. Therefore, Petitioner's detention violates the statute and
3 he is entitled to immediate release.

4 45. Petitioner's detention also violates the Due Process Clause. The Due Process Clause of
5 the Fifth Amendment forbids the government from depriving any "person" of liberty
6 "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from
7 government custody, detention, or other forms of physical restraint—lies at the heart of
8 liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 690 (citing
9 *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

10 46. Here, this Court should hold that civil immigration detention violates due process if it is
11 not reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406
12 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized
13 only two valid purposes for civil detention: to mitigate the risk of flight and prevent
14 danger to the community. *Id.* Petitioner's prolonged civil detention, which is likely to
15 continue indefinitely, is no longer reasonably related to the primary statutory purpose of
16 ensuring imminent removal. Thus, Petitioner's detention violates Petitioner's right to due
17 process. To the extent ICE may argue that it can continue indefinitely detaining Petitioner
18 on the grounds that he is "specially dangerous", ICE has not even attempted to comply
19 with its own extensive procedures to obtain such a classification. *See* 8 C.F.R. §
20 241.14(f)-(g), (i). *See also, Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211
21 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen
22 months after Iranian officials failed to respond to a travel document request for more than
23 seven months). Respondents have not removed Petitioner since 2020 and Respondents
24 cannot provide a date where Petitioner would be removed in the foreseeable future.

1 47. This is a case where ICE has not obtained a certification of special dangerousness from
2 the Commissioner, it has not ordered that Petitioner undergo a medical examination, and
3 it has not initiated a reasonable cause proceeding in Immigration Court. In fact, ICE's
4 own regulations provide that without proving "special dangerousness" by clear and
5 convincing evidence before an Immigration Judge, ICE does not have the ability to
6 indefinitely detain an alien who has no significant likelihood of being removed within a
7 six-month period.

8 48. In short, ICE has not followed its own rules, or the due process demanded by the United
9 States Constitution and by *Zadvydas*. It follows that ICE's assertions that Petitioner can
10 be indefinitely detained due to his criminal record should carry no weight whatsoever in
11 this Court's determination.

12 49. Even with a request for travel documents from Iran or Consulate, the fact is that no travel
13 documents have been issued to date. Because all of the Consulates have not issued travel
14 documents, and there is no evidence when, if ever, travel documents will be issued, ICE
15 has not satisfied its burden, therefore, Petitioner must be released. *See Shefqet v. Ashcroft*,
16 No. 02 C 7737, 2003 WL 1964290, *5 (N.D. Ill. Apr. 28, 2003) (INS failed to carry
17 burden of proof where no travel documents had been issued, Yugoslavian alien had been
18 detained for 17 months, and INS had been able to remove other aliens to Yugoslavia
19 during that period).

20 50. This is a case where no country has issued any travel documents and there is no clear
21 indication as to when, if ever, such travel documents will be issued. Thus, Petitioner's
22 removal is not significantly likely to occur in the reasonably foreseeable future. *See*
23 *Habtegabrer v. Jenifer*, 256 F. Supp. 692, 697-98 (E.D. Mich. 2003) (Ethiopian national
24 ordered released after 7 months' detention where neither Ethiopia nor Eritrea responded

1 to INS's request for travel documents); *Okwilagwe v. Immigration & Naturalization*
2 *Service*, No. 3-01-CV-1416-BD, 2002 WL 356758, *3 (N.D. Tex. Mar. 1, 2002) (alien
3 from Nigeria in custody for 11 months ordered released under Zadvydas because INS did
4 not have travel documents in hand and there was no certainty as to when such documents
5 might be issued); *see also, Lewis v. Immigration & Naturalization Service*, No.
6 00CV0758(SJ), 2002 WL 1150158, *4-5 (E.D. N.Y. May 7, 2002) (alien from Barbados
7 provided "good reason" to believe removal not likely to occur in the reasonable
8 foreseeable future where consulate had not responded to INS requests for travel
9 documents and alien had been detained longer than six months).

10 51. Taken as a whole, Petitioner's indefinite detention violates the detention statute and is
11 unconstitutional. Therefore, Petitioner respectfully requests that this Court order
12 Respondents to show cause why the writ should not be granted "within three days unless
13 for good cause additional time, not exceeding twenty days, is allowed," and set a hearing
14 on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the
15 Writ of Habeas Corpus ordering Respondents to immediately release Petitioner.

16 **IN THE ALTERNATIVE, AN EMERGENCY INJUNCTION RELIEF IS**
17 **WARRANTED TO PREVENT IRREPARABLE HARM**

18 52. Petitioner respectfully requests that this Court issue an emergency injunction ordering
19 his immediate release from ICE custody or, in the alternative, a constitutionally adequate
20 bond hearing. Injunctive relief is appropriate where the petitioner demonstrates: (1) a
21 likelihood of success on the merits, (2) irreparable harm absent relief, (3) that the balance
22 of equities tips in his favor, and (4) that the public interest supports relief. *Winter v. Nat.*
23 *Res. Def. Council*, 555 U.S. 7, 20 (2008); *Alliance for the Wild Rockies v. Cottrell*, 632
24 F.3d 1127, 1131 (9th Cir. 2011) (a serious question going to the merits plus a balance of

1 hardships that tips sharply toward the petitioner also supports injunctive relief).

2 **A. Likelihood of Success on the Merits**

3 53. Petitioner has demonstrated a high likelihood of success. His prolonged detention
4 without a constitutionally adequate bond hearing violates the Fifth Amendment's Due
5 Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must
6 bear a reasonable relation to its purpose and cannot be indefinite); *Singh v. Holder*, 638
7 F.3d 1196, 1203–04 (9th Cir. 2011) (government bears the burden of proving danger or
8 flight risk by clear and convincing evidence in prolonged detention cases); *Hernandez v.*
9 *Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (requiring individualized bond
10 determinations and consideration of ability to pay). Because DHS has failed to justify
11 Petitioner's continued detention under the appropriate legal standard, success on the
12 merits is likely. Again, DHS has also failed to remove Petitioner since 2020.

13 **B. Irreparable Harm**

14 54. Petitioner suffers ongoing irreparable harm every day that his liberty is restrained in
15 violation of due process. Prolonged detention imposes significant psychological and
16 physical hardship and impedes Petitioner's ability to meaningfully participate in his
17 defense. The Ninth Circuit has recognized that "prolonged detention without adequate
18 procedural protections would raise serious constitutional concerns." *Rodriguez v.*
19 *Robbins*, 804 F.3d 1060, 1074 (9th Cir. 2015), *vacated on other grounds*, 138 S. Ct. 830
20 (2018). The deprivation of liberty is the quintessential form of irreparable harm.

21 **C. Balance of Equities**

22 55. The balance of equities strongly favors Petitioner's release. The government's interest in
23 ensuring attendance at removal proceedings can be met through less restrictive means,
24 such as bond or supervision, particularly where Petitioner has taken steps of rehabilitation

1 and no record of absconding. See *Valdez-Jimenez v. Eighth Judicial Dist. Ct.*, 460 P.3d
2 976, 992 (Nev. 2020) (holding that due process requires individualized findings before
3 continued pretrial detention). Continued detention imposes significant hardship on
4 Petitioner, while release under reasonable conditions poses no harm to the government.

5 **D. Public Interest**

6 56. The public interest is always served by upholding constitutional rights and preventing
7 unlawful detention. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (recognizing
8 that enforcement of constitutional rights is in the public interest). Prompt judicial
9 intervention will preserve the integrity of removal proceedings and reinforce the rule of
10 law. Public interests favor Petitioner's release as DHS has yet to deport him to Iran.

11 i. **ICE's Custody Review Process Is Constitutionally Inadequate.**

12 **Leaving Habeas Corpus as the Only Available Remedy**

13 57. ICE's post-order custody reviews at 90 and 180 days are not meaningful substitutes for
14 judicial review. These reviews are conducted entirely within the agency, lack transparent
15 standards, provide no guaranteed opportunity to present evidence or rebut government
16 assertions, and result in decisions that are unappealable. Such a process fails to meet the
17 minimum requirements of due process. See *Rodriguez v. Robbins*, 804 F.3d 1060, 1074
18 (9th Cir. 2015), vacated on other grounds, 138 S. Ct. 830 (2018) (requiring individualized
19 bond hearings with meaningful procedural protections for prolonged detention).

20 58. Even if Petitioner were to wait for the 180-day custody review, there is no assurance that
21 ICE would provide a fair hearing or a reasoned decision, leaving Petitioner at risk of
22 indefinite and unreviewable detention—a result the Supreme Court condemned in
23 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The lack of an effective administrative
24 remedy underscores the need for this Court's intervention through habeas corpus. As the

1 Supreme Court reaffirmed in *Boumediene v. Bush*, 553 U.S. 723, 745 (2008), the Great
2 Writ is a critical safeguard against unlawful executive detention and ensures that no
3 person is deprived of liberty without judicial review.

4 59. Because no other remedy exists to challenge DHS/ICE's arbitrary detention decisions,
5 habeas corpus relief is proper and necessary to protect Petitioner's constitutional rights.
6 This Court should therefore grant the writ and order Petitioner's immediate release or, at
7 minimum, require a constitutionally adequate bond hearing where DHS bears the burden
8 of proof by clear and convincing evidence.

9 ii. **DHS/ICE's Arbitrary Detention Decisions Are Unlawful and**
10 **Deprive Petitioner of Due Process**

11 60. DHS and ICE have acted in an arbitrary and capricious manner by cherry-picking arrests
12 and selectively detaining noncitizens like Petitioner without a reasoned basis or
13 individualized assessment. Administrative detention must be rationally related to its
14 purpose—to secure attendance at proceedings or protect the public—and cannot be
15 punitive or arbitrary. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention must
16 bear a reasonable relation to its purpose); *Judulang v. Holder*, 565 U.S. 42, 53 (2011)
17 (agency action must be based on a reasoned explanation and not arbitrary decision-
18 making). DHS has failed to deport Petitioner since 2020 and thus warrants release.

19 61. DHS denied Petitioner's 90-day custody review without any meaningful explanation and
20 with no opportunity to present evidence or rebut allegations. This lack of procedural
21 safeguards renders the review process constitutionally deficient. The Ninth Circuit has
22 consistently held that the government must provide individualized determinations and
23 consider less restrictive alternatives to detention. *Rodriguez v. Robbins*, 804 F.3d 1060,
24 1082–83 (9th Cir. 2015) (requiring bond hearings and consideration of alternatives to

1 detention), *vacated on other grounds*, 138 S. Ct. 830 (2018).

2 62. Moreover, even if Petitioner were to wait until the 180-day custody review, there is no
3 guarantee that DHS/ICE would provide a fair opportunity to seek release. ICE's post-
4 order custody reviews are entirely discretionary, lack transparent standards, and provide
5 no mechanism for appeal if denied. This leaves Petitioner in a state of indefinite and
6 unreviewable detention, a situation the Supreme Court condemned in *Zadvydas*, 533 U.S.
7 at 690 (holding that indefinite detention raises serious constitutional concerns).

8 63. Because no other adequate remedy exists to challenge this unlawful detention—and
9 because continued detention without judicial oversight would result in irreparable harm
10 and injury—this Court's intervention through habeas corpus relief is not only proper but
11 necessary. The writ of habeas corpus serves as a critical check on executive overreach
12 and unlawful deprivation of liberty. See *Boumediene v. Bush*, 553 U.S. 723, 745 (2008)
13 (habeas corpus is a fundamental safeguard against arbitrary detention).

14 64. DHS/ICE's decision to continue Petitioner's detention without meaningful
15 individualized review is arbitrary, capricious, and violates the Fifth Amendment's Due
16 Process Clause. Administrative agencies must exercise discretion based on a reasoned
17 explanation and may not engage in arbitrary decision-making. *Judulang v. Holder*, 565
18 U.S. 42, 53 (2011). Civil immigration detention must bear a reasonable relation to its
19 purpose—to ensure appearance at proceedings and protect the public—and cannot
20 become punitive or indefinite. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Ninth
21 Circuit has likewise emphasized that due process requires a neutral decision-maker and
22 individualized determinations supported by clear and convincing evidence. *Singh v.*
23 *Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976,
24 991 (9th Cir. 2017). DHS's failure to provide a fair custody review or viable appeal rights

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

leaves Petitioner in prolonged detention without meaningful process, warranting this Court's intervention and immediate release through the Great Writ of habeas corpus.

iii. ICE's Cherry-Picking Arrests Are Arbitrary, Capricious, and Violate Petitioner's Rights as a Refugee

65. ICE's decision to arrest Petitioner despite his full compliance with supervision requirements constitutes arbitrary and capricious enforcement action that violates both the Fifth Amendment's guarantee of due process and the Administrative Procedure Act's requirement of reasoned decision-making. *See Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency action must not be arbitrary or capricious but must rest on a reasoned explanation). Petitioner has consistently complied with every directive imposed by ICE, including check-ins, reporting obligations, and cooperation with removal procedures. Targeting him for arrest and detention under these circumstances amounts to impermissible "cherry-picking" enforcement—a practice where the agency singles out compliant individuals while taking no action against others, without articulating any rational basis for the disparate treatment.

66. Such selective enforcement is constitutionally suspect and undermines the integrity of the immigration system. The Supreme Court has emphasized that agency actions must be guided by intelligible principles and consistent application of law. *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) (agency decisions must reflect reasoned analysis and avoid arbitrary departures from settled policy). ICE's decision here reflects no individualized assessment of danger or flight risk, as required by due process. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011) (government bears burden of proving danger or flight risk by clear and convincing evidence).

67. Moreover, Petitioner has refugee status and is protected by statute and international law

1 from removal to [REDACTED] See INA § 241(b)(3)(A), 8 U.S.C. § 1231(b)(3)(A) (prohibiting
2 removal of a noncitizen to a country where life or freedom would be threatened); see
3 also, *INS v. Cardoza-Fonseca*, 480 U.S. 421, 449 (1987) (refugee protections reflect the
4 humanitarian purpose of U.S. asylum law). By arresting Petitioner despite knowing he
5 cannot be deported to Iran, ICE's conduct is not only futile but punitive, rendering the
6 detention unlawful under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (detention must
7 be reasonably related to its purpose and cannot be indefinite where removal is not
8 reasonably foreseeable).

9 68. Because ICE's arrest and detention decisions lack a rational connection to a legitimate
10 governmental objective and instead reflect arbitrary "cherry-picking" enforcement, this
11 Court should grant the writ of habeas corpus and order Petitioner's immediate release.
12 Judicial intervention is necessary to prevent further constitutional injury and to ensure
13 that agency discretion is exercised within lawful bounds.

14 69. Accordingly, this Court should grant the writ and order Petitioner's immediate release or,
15 at minimum, require a constitutionally adequate bond hearing where DHS bears the
16 burden of proof by clear and convincing evidence.

17 **CLAIMS FOR RELIEF**

18 **COUNT ONE**

19 **PETITIONER'S DETENTION IS IN VIOLATION OF DUE PROCESS CLAUSE OF**
20 **THE FIFTH AMENDMENT OF THE U.S. CONSTITUTIONAL**

21 70. This Court should order Petitioner's immediate release because DHS/ICE's arbitrary and
22 capricious detention decisions violate the Fifth Amendment's guarantee of due process.

23 71. All persons, including non-citizens, residing in the United States are protected by the Due
24 Process Clause of the Fifth Amendment to the United States Constitution. See *Zadvydas*

1 v. *Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1982). The Due
2 Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived
3 of life, liberty, or property, without due process of law”. *U.S. Const., amend. V*. “Freedom
4 from imprisonment—from government custody, detention, or other forms of physical
5 restraint—lies at the heart of liberty that Clause protects”. *Zadvydas*, 533 U.S. at 690.

6 72. Detention by the Respondents puts at risk Petitioner's protected life and liberty interest.

7 The Due Process Clause of the Fifth Amendment forbids the government from depriving
8 any “person” of life and liberty “without due process of law”. *See U.S. Const., amend. V*.

9 73. To justify Petitioner's ongoing prolonged detention, Due Process requires that the
10 government establish, at an individual hearing before a neutral decisionmaker, that
11 Petitioner's detention is justified by *clear and convincing* evidence of flight risk or
12 danger, even after consideration whether alternatives to detention could sufficiently
13 mitigate that risk.

14 74. Indeed, not all criminal convictions conclusively establish that an alien presents a danger
15 to the community, even where the crimes are serious enough to render the alien
16 removable. *Cf. Foucha*, 504 U.S. at 82-83, 112 S. Ct. 1780 (requiring a showing of
17 dangerousness beyond that “of any convicted criminal” to justify civil detention of the
18 criminally insane). Thus, denial of bond on the basis of criminal history alone is not
19 warranted. *Id.* at 1206.

20 75. Also, Petitioner has a critical role in assisting his wife and children who are United States
21 citizens. Petitioner provides both financial and practical support to his family and relies
22 on *United States v. Arrieta, supra.*, to support this argument.

23 76. With the emotional and financial hardship to his family, significant parental role and the
24 emotional toll of breaking up the family unit, *see Arrieta*, 22 F.3d at 1082; *Cerrillo-Perez*

1 v. *INS*, 809 F.2d 1419, 1423 (9th Cir. 1987) custody release is warranted. This Court
2 should grant this Writ of Habeas Corpus and Petitioner should be ordered released from
3 ICE custody as Petitioner's ongoing detention violates Due Process of Law, the United
4 States Constitution and Common Law.

5 **COUNT TWO**

6 **STATUTORY VIOLATIONS**

7 77. Petitioner re-alleges and incorporates by reference paragraphs 1 through 78 above.

8 78. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. §
9 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. Petitioner still has not been
10 removed, and Petitioner continues to languish in detention. Petitioner's removal to his
11 country of origin, which would be Iran, or any country is not significantly likely to occur
12 in the foreseeable future. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's
13 continued detention of someone like Petitioner under such circumstances is unlawful.

14 **COUNT THREE**

15 **SUBSTANTIVE DUE PROCESS VIOLATION**

16 79. Petitioner re-alleges and incorporates by reference paragraphs 1 through 79 above.

17 80. Petitioner's continued detention violates Petitioner's right to substantive due process
18 through a deprivation of the core liberty interest in freedom from bodily restraint.

19 81. The Due Process Clause of the Fifth Amendment requires that the deprivation of
20 Petitioner's liberty be narrowly tailored to serve a compelling government interest. While
21 Respondents would have an interest in detaining Petitioner in order to effectuate removal,
22 that interest does not justify the indefinite detention of Petitioner, who is not significantly
23 likely to be deported in the reasonably foreseeable future. *Zadvydas* recognized that ICE
24 may continue to detain aliens only for a period reasonably necessary to secure the alien's

1 removal. Since 2020, DHS has failed to provide a date for Petitioner's removal.
2

3 **COUNT FOUR**

4 **PROCEDURAL DUE PROCESS VIOLATIONS**

5 82. Petitioner re-alleges and incorporates by reference paragraphs 1 through 82.

6 83. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely
7 and meaningful opportunity to demonstrate that he should not be detained. Petitioner in
8 this case has been denied that opportunity. Petitioner respectfully notes that ICE does not
9 make decisions concerning aliens' custody status in a neutral and impartial manner. The
10 failure of Respondent to provide a neutral decision-maker to review the continued
11 custody of Petitioner violates Petitioner's right to procedural due process. Further,
12 Respondents have failed to acknowledge or act upon the Petitioner's administrative
13 request for release in a timely manner. There is not administrative mechanism in place
14 for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal
15 a custody decision that violates *Zadvydas*.

16 **LEGAL FRAMEWORK FOR RELIEF SOUGHT**

17 84. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that six months
18 is the presumptively reasonable period during which ICE may detain aliens in order to
19 effectuate their removal. *Id.* at 702. In *Clark v. Martinez*, 543 U.S. 371 (2005), the
20 Supreme Court held that its ruling in *Zadvydas* applies equally to inadmissible aliens. In
21 fact, DHS' administrative regulations also recognize that the HQPDU has a six-month
22 period for determining whether there is a significant likelihood of an alien's removal in
23 the reasonably foreseeable future. 8 C.F.R. § 241.13(b)(2)(ii). Yet, it is important to stress
24 out that there is no clear indication that ICE will remove Petitioner in the reasonable
foreseeable future nor can it provide such an indication. Thus, Petitioner warrants release.

1 85. Again, Petitioner was arrested by ICE as he was leaving his residency, which
2 categorically constitutes that DHS is cherry-picking arrests and detention.

3 86. Further, there is no response from a country designated for removal and this follows a
4 significant delay in receiving a response. *See, e.g., Gonzalez-Rondon v. Gillis*, 5:19-cv-
5 109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to
6 petitioner detained thirteen months where there was no response from Venezuelan
7 officials). Moreover, there is no indication from any Embassy or Consulate that travel
8 documents would be issued for Petitioner. *Lawrikow v. Kollus*, No. CV-08-1403-PHX-
9 GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009).

10 87. Even if Petitioner's detention is authorized under Section 1231, 1225 or 1226, Petitioner's
11 continued detention must comport with due process. Petitioner argues his prolonged
12 detention violates his due process rights; he requests release. This Court should hold that
13 Petitioner's continued detention has become unreasonably prolonged and the Constitution
14 therefore does, at this time, require that Petitioner be released.

15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, Petitioner prays that this Court grant the following relief:

17 88. Assume jurisdiction over this matter;

18 89. Issue a declaration that Petitioner's ongoing detention violates the Due Process Clause of
19 the Fifth Amendment and the Eighth Amendment;

20 90. Grant Petitioner a Writ of Habeas Corpus directing the Respondents to immediately
21 release Petitioner from custody;

22 91. Enter preliminary and permanent injunctive relief enjoining Respondents from further
23 unlawful detention of Petitioner;

24 92. This Court should grant a Writ of Habeas Corpus and order Petitioner's release within

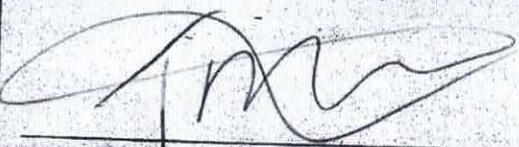
1 twenty ("20") days, unless the Respondents schedule a bond hearing before an
2 immigration judge where the IJ holds proper jurisdiction and where: (1) to continue
3 detention, DHS must establish by *clear and convincing* evidence that Petitioner presents
4 a *flight risk* or *danger to the public*, even after consideration of alternatives to detention
5 that could mitigate any risk that Petitioner's release would present; and (2) if DHS cannot
6 meet its burden, then the IJ should order Petitioner's custody release under a reasonable
7 Bond taking into account Petitioner's ability to pay;

8 93. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
9 ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis
10 justified under law;

11 94. Grant any further relief as this Honorable U.S. District Court deems just and proper.

12
13  hereby affirm under penalty of perjury and under the laws of the United
14 States that the foregoing is true and correct to the best of my knowledge and belief.

15
16 **DATED and executed on this 1st day of October, 2025.**

17
18 

19
20 
21
22 Nevada Southern Detention Center
23 2190 East Mesquite Avenue
24 Pahrump, NV 89060

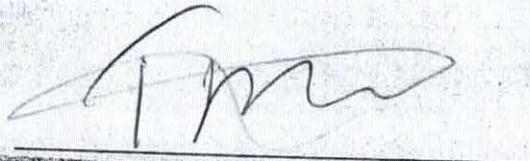
1 ///
2 ///
3 ///
4 ///
5 ///

ACKNOWLEDGEMENT AND VERIFICATION

Under penalty of perjury, the undersigned declares that he is the named Petitioner in the foregoing petition. I have read the foregoing petition and its contents. The statements in the petition are true and correct to the best of my knowledge, except as to any statements alleged on information and belief, and as to those statements, I believe them to be true.

DATED this 1st day of October, 2025.

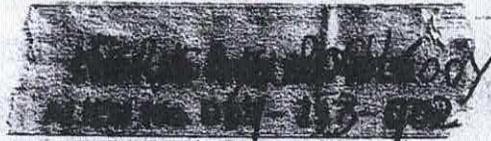
EXECUTED in Pahrump, Nevada.



Nevada Southern Detention Center
2190 East Mesquite Avenue
Pahrump, NV 89060

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

PETITION FOR WRIT OF HABEAS CORPUS



PETITIONER, PRO SE
CUSTODY STATUS: DETAINED