

1 ADAM GORDON
United States Attorney
2 KIM A. C. GREGG
Assistant U.S. Attorney
3 California Bar No. 318764
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-8437
Email: Kim.Gregg@usdoj.gov

6 Attorneys for Respondents

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

10
11 LUKE GIEBASHVILI,

Petitioner,

Case No. 25-cv-3432-BJC-VET

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

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13
14 v.

15 KRISTI NOEM, Secretary of the
16 Department of Homeland Security, et al.,

17 Respondents.
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20 **I. INTRODUCTION**

21 Respondents hereby submit their return to Petitioner’s habeas petition, and for
22 the reasons set forth below, respectfully ask the Court to deny the petition.

23 **II. BACKGROUND**

24 Petitioner is a native and citizen of Georgia, who unlawfully entered the United
25 States on December 7, 2024, and was thereafter booked into Immigration and Customs
26 Enforcement (ICE) custody and processed for expedited removal. *See* Declaration of
27 Leticia Rodriguez (“Rodriguez Decl.”) at ¶¶ 4–5. After receiving a positive credible
28 fear determination by an asylum officer, Petitioner was served a Notice to Appear and

1 placed in removal proceedings before an Immigration Judge (IJ). *See id.* at ¶¶ 6–8. On
2 May 29, 2025, the IJ ordered Petitioner removed to Georgia but granted him
3 withholding of removal to that country under the Immigration and Nationality Act. *See*
4 *id.* at ¶ 6. Since the conclusion of Petitioner’s removal proceedings, ICE has been
5 working as expeditiously as possible to identify a third country where Petitioner may
6 be removed and “believes there is a significant likelihood of removal to a third country
7 in the reasonably foreseeable future.” *Id.* at ¶¶ 9–13.

8 III. ARGUMENT

9 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
10 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
11 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
12 (2022). The INA provides that an alien ordered removed must be detained for 90 days
13 pending the government’s efforts to secure the alien’s removal through negotiations
14 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
15 detain” the alien during the 90-day removal period under subsection (a)(1)).

16 Section 1231(a)(6) “authorizes further detention if the Government fails to
17 remove the alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).
18 Detention authority under this statute, however, is limited to “a period reasonably
19 necessary to bring about the alien’s removal from the United States” and “does not
20 permit indefinite detention.” *Id.* at 689. The Supreme Court has held that a six-month
21 period of post-removal detention constitutes a “presumptively reasonable period of
22 detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month
23 period unless “there is no significant likelihood of removal in the reasonably foreseeable
24 future.” *Id.*

25 If an individual ordered removed “is not removed to his or her country of choice
26 or citizenship, he or she shall be removed to any of the following countries” listed in 8
27 U.S.C. § 1231(b)(2)(E). *Hadera v. Gonzales*, 494 F.3d 1154, 1156–57 (9th Cir. 2007).
28 The enumerated countries are:

- 1 (i) The country from which the alien was admitted to the United States
- 2 (ii) The country in which is located the foreign port from which the alien
- 3 left for the United States or for a foreign territory contiguous to the United
- 4 States.
- 5 (iii) A country in which the alien resided before the alien entered the
- 6 country from which the alien entered the United States.
- 7 (iv) The country in which the alien was born.
- 8 (v) The country that had sovereignty over the alien's birthplace when the
- 9 alien was born.
- 10 (vi) The country in which the alien's birthplace is located when the alien
- 11 is ordered removed.

12 *Id.* (quoting § 1231(b)(2)(E)(i)–(vi)). “If removal to any of these countries is
13 ‘impracticable, inadvisable, or impossible,’ the individual shall be removed to ‘another
14 country whose government will accept the alien into that country.’” *Id.* (quoting
15 § 1231(b)(2)(E)(vii)).

16 Here, Petitioner was granted withholding of removal to Georgia—his country of
17 birth and citizenship, as well as the country designated during his removal proceedings.
18 Petitioner has not designated any other country for removal. Apart from Georgia, there
19 appears to be no other country that would meet the definitions under subsections (i)
20 through (vi), and Petitioner has made no showing to the contrary. *See Rokhfirooz v.*
21 *Larose*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165, at *2 (S.D. Cal. Sept. 15,
22 2025) (“A prisoner bears the burden of demonstrating that ‘he is in custody in violation
23 of the Constitution or laws or treaties of the United States.’”) (quoting 28 U.S.C.
24 § 2241(c)(3), brackets omitted). Because removal to the above enumerated countries is
25 “impracticable, inadvisable, or impossible,” ICE may remove Petitioner to a third
26 country that will accept Petitioner’s removal. 8 U.S.C. § 1231(b)(2)(E)(vii).

27 As illustrated in other petitions filed by the Federal Defenders in this district,
28 recent developments in international relations between the United States and several
other countries have made probable ICE’s removal of immigrants, like Petitioner, that
it previously was unable to remove to third countries. *See, e.g., Varona v. Noem et al.*,
25-cv-3328-JES-SBC, ECF No. 1 at 6 (S.D. Cal. Nov. 26, 2025) (“The Trump

1 administration reportedly has negotiated with at least 58 countries to accept deportees
2 from other nations.”). Against this backdrop and invoking its authority under 8 U.S.C.
3 § 1231(b)(2)(E), ICE continues to detain Petitioner for purposes of enforcing his
4 removal order to a third country. *See* Rodriguez Decl. at ¶¶ 8–9.

5 Since Petitioner’s order of removal, ICE has worked as expeditiously as possible
6 to effectuate his resettlement in a third country. On June 20, 2025, local Enforcement
7 and Removal Operations (ERO) contacted Removal and International Operations (RIO)
8 to seek a third country for removal in this case. *See id.* at ¶ 10. RIO then sent requests
9 to the governments of France, Spain, and Guatemala to accept Petitioner for third
10 country resettlement. *See id.* “As of September 22, 2025, all three governments declined
11 the requests.” *Id.* Local ERO has since sought updates from RIO on whether it has
12 identified a country where Petitioner may be removed. *See id.* at ¶ 11. Although RIO is
13 still in the process of identifying a country that may be willing to accept Petitioner for
14 removal, ICE attests that it “continues to diligently seek to identify a third country for
15 Petitioner’s removal and believes there is a significant likelihood of removal to a third
16 country in the reasonably foreseeable future.” *Id.* at ¶¶ 12–13.

17 Petitioner also suggests that once a third country is identified, ICE will
18 immediately deport him there without being given notice and an opportunity to be
19 heard. *See* ECF No. 1 at 4. ICE attests, however, that once a third country is identified,
20 it “will provide Petitioner with written notice, and if Petitioner claims a fear of removal
21 to the identified country, he will be referred to an asylum officer for processing of the
22 fear-based claims.” Rodriguez Decl. at ¶ 14. The evidence further shows that ICE will
23 generally wait at least 24 hours following the notice of third country removal before
24 executing it, and under no circumstances would removal be executed in less time than
25 that without the noncitizen being provided “reasonable means and opportunity to speak
26 with an attorney prior to removal.” *Id.* Thus, Petitioner’s concern that he will not receive
27 adequate notice and an opportunity to be heard prior to his third country removal is not
28 borne out by the evidence in this case.

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IV. CONCLUSION

For the reasons stated herein, Respondents respectfully request that the Court deny the habeas petition.

DATED: December 18, 2025

ADAM GORDON
United States Attorney

s/ Kim A. C. Gregg
KIM A. C. GREGG
Assistant United States Attorney

Attorneys for Respondents