

FILED	LODGED
RECEIVED	
JAN 26 2026	
CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

1 Name: Alireza Hamedani,
2 1623 EAST J STREET SUITE FIVE
3 TACOMA, WASHINGTON 98421

4 UNITED STATES DISTRICT COURT

5 IN AND FOR THE WESTERN DISTRICT OF WASHINGTON

6 Name : Alireza Hamedani,) Case No.: 2:25-cv-02509-JNW-TLF
7)
8 Petitioner)
9 vs.)
10 PEMELA BONDI, United States Attorney)
11 General; KRISTI NOEM, Secretary Department of) PETITIONER'S RESPONSE TO
12 Homeland Security; BRUCE SCOTT, Warden) RESPONDENT'S RETURN MEMORANDUM
13 NWIPC; and LAURA HERMOSILLO, Director
14 United States Department of Homeland Security
15 Enforcement and Removal Office Seattle,
16 Respondent
17
18
19
20
21
22
23
24
25

There is no reasonable likelihood of Petitioner's removal in the foreseeable future, and Petitioner's release should be immediate and his prior order of supervision ("OSUP") REINSTATED. The Respondent's conflates the record when it stated "ICE is presently exploring removal to Germany, Lebanon, and United Arab Emirates." These countries have demonstrated tolerance for petitioner's faith and have issued visas for Iranian passport holders."

1 Firstly, what the Respondent's failed to mention is that it was the petitioner that
2 "designated" Germany as an option for his removal, in addition to Germany petitioner
3 also designated Canada, and Australia as a third country for removal option. Secondly,
4 Respondent's also insinuates that Germany, Lebanon, and U.A.E. "have demonstrated
5 tolerance for petitioner's faith and have issued visas for Iranian passport holders." Here,
6 the Respondent's failed to disclose what "faith" Petitioner belongs to. In fact, Petitioner

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] And given the current Iranian
10 regime's tentacles in the Middle East where both Lebanon and U.A.E. are located as
11 opposed to Germany, Canada, And Australia is what prompted "fear" in Petitioner of
12 being remove to Lebanon or U.A.E.

13
14 The Respondent's further conflates the record by insinuating that on the
15 dates of December 4, 2025, and December 12, 2025, "Petitioner refused to cooperate
16 with ICE efforts to remove him." Here, what the Respondent's failed to realize is its
17 failure to provide the Petitioner his simple statutory right simply by asking if the
18 Petitioner have any "fears" of being remove to Lebanon, and or U.A.E. could be the
19 driving force behind Petitioner's skepticism especially given the employment of
20 unconstitutional methods of third country removals by this current Administration.

21
22 The immigration laws delineate the proper procedures by which a country may be
23 designated for removal. See 8 U.S.C. § 1231(B). These procedures move in incremental
24 steps.

25

1 First, an individual with a removal order may designate the country to
2 which they want to be removed, and the government shall remove the individual to that
3 country. 8 U.S.C § 1231(b)(2)(A). The government may disregard that designation if (1)
4 the individual fails to designate a country promptly; (2) the government of that country
5 does not inform the U.S. government finally, within 30 days after the date the U.S.
6 government first inquires, whether the government will accept the individual into that
7 country; (3) the government of that country is not willing to accept the individual into the
8 country; or (4) the government decides that removing the individual to that country is
9 prejudicial to the United States. 8 U.S.C. § 1231(b)(2)(C).

10
11 Second, if the individual is not removed to the country they designated under
12 § 1231(b)(2)(A), the government shall remove the individual to the country of which the
13 individual is a “subject, national, or citizen” unless the government of that country does
14 not inform the U.S. government or the individual within 30 days after first inquiry or
15 within another reasonable period of time whether the government will accept the
16 individual into the country or the country is not willing to accept the individual into the
17 country. 8 U.S.C. § 1231(b)(2)(D).

18
19 Third, if the individual is not removed to either the country of their
20 designation or the country of which they are a subject, national, or citizen, then the
21 government shall remove them to any of the following options: (1) the country from
22 which the individual was admitted to the United States; (2) the country in which is
23 located the foreign port from which the individual left for the United States or for a
24 foreign territory contiguous to the United States; (3) the country in which the individual
25 resided before the individual entered the United States and from which the individual

1 entered the United States; (4) the country in which the individual was born; or (5) the
2 country in which the individual's birthplace is located when the individual was ordered
3 removed. 8 U.S.C. § 1231(b)(2)(E) only "if impracticable, inadvisable, or impossible" to
4 remove the individual to any of these countries may the government remove the
5 individual to "another country whose government will accept them into that country." 8
6 U.S.C. § 1231(b)(2)(E)(VII).

7
8 Notwithstanding any of these procedures, the statute prohibits removal to a
9 third country where a person may be persecuted or tortured, a form of protection known
10 as withholding of removal. See 8 U.S.C. § 1231(b)(3)(A). The government "may not
11 remove a non-citizen to a country if the Attorney general decides that the non-citizen's
12 life or freedom would be threatened in that country because of the non-citizen's race,
13 religion, nationality, membership in a particular social group, or political opinion." *id*; see
14 also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

15
16 Similarly, Congress codified protections enshrined in the Convention Against
17 Torture ("CAT") prohibiting the government from removing a person to a country where
18 they would be tortured. See Foreign Affairs and Restructuring Act of 1998 ("FARRA"),
19 Public Law 105-277, div, G, sec, 2242, 112 Stat. 2681, 2631-822 (8 U.S.C. § 1231 note) ("it
20 shall be the policy of the United States not to expel, extradite, or otherwise effect the
21 involuntary return of any person to a country in which there are substantial grounds for
22 believing the person would be in danger of being subjected to torture, regardless of
23 whether the person is physically present in the United States."), 28 C.F.R. § 200; §§
24 208.18, 1208.16-1208.18 cat PROTECTION IS ALSO MANDATORY.

1 To comport with requirements of due process, the government must provide
2 notice of the third country removal and an opportunity to respond. Due process requires
3 “written notice of the country being designated” and “the statutory basis for the
4 designation, i.e., the applicable subsection of § 11231(b)(2).” *Aden v. Nielsen*, 409 F.
5 Supp. 3d 998, 1019 (W.D. Wash. 2019); see also *D.V.D. v. U.S. Dep’t of Homeland*
6 *Sec.*, No. 25-CV-10676-BEM, 2025 WL 1453640, at *1 (D.Mass. May 21, 2025) (“All
7 removals to third countries, i.e., removal to a country or countries designated during
8 immigration proceedings as the country of removal on the non-citizen’s order of removal,
9 must be preceded by written notice to both the non-citizen and the non-citizen’s counsel
10 in a language the non-citizen can understand.” (citation omitted)); *Andriasian v. INS*, 180
11 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to the non-citizen of the right
12 to apply for asylum and withholding to the country where they will be removed). The
13 government must be able to show evidence that the third country will accept the
14 individual into that country. See *Himri v. Ashcroft*, 378 F3d 932, 939 (9th Cir. 2004) (“at
15 the time the government proposes a country of removal pursuant to § 1231(b)(2)(E)(vii),
16 the government must be able to show that the proposed country will accept the
17 individual”).

7 Due process also demands that the government “ask the noncitizen whether he or
8 she fears persecution or harm upon removal to the designated country and memorialize
9 in writing the noncitizen’s response. This requirement ensures DHS will obtain the
10 necessary information from the noncitizen to comply with section 1231(b)(3) and
11 avoids [a dispute about what the officer and noncitizen said].” *Aden*, 409 F. Supp. 3d at
12 1019; *cf. D.V.D.*, 2025 WL 1453640, at *1 (“Following notice, the individual must be
13 given a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim
14 for CAT protection prior to removal.”) (emphasis omitted).

15 If the noncitizen claims fear, measures must be taken to ensure that the
16 noncitizen can seek asylum, withholding, and relief under CAT before an immigration
17 judge in reopened removal proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring
18 the government to move to reopen the noncitizen’s immigration proceedings if the
19 individual demonstrates “reasonable fear” and to provide “a meaningful opportunity,
20 and a minimum of fifteen days, for the non-citizen to seek reopening of their
21 immigration proceedings” if the noncitizen is found to not have demonstrated
22 “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice and time for a
23 respondent to file a motion to reopen and seek relief).

24 Finally, notice of the country to which the noncitizen will be removed must not
25 be “last minute” because that would deprive an individual of a meaningful opportunity
26 to apply for fear-based protection from removal. *Andriasian*, 180 F.3d at 1041. They

1 must have time to prepare and present relevant arguments and evidence and to seek
2 reopening of their removal case.

3 **Facts Pertaining to Punitive Banishment to Third Countries**

4 Since January 2025, Respondents have developed and implemented a policy and
5 practice of removing individuals to third countries, without first following the
6 procedures in the INA for designation and removal to a third country and without
7 providing fair notice and an opportunity to contest the removal in immigration court.

8 Respondents reportedly have negotiated with at least 58 countries to accept
9 deportees from other nations. On June 25, 2025, the *New York Times* reported that
10 seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and
11 Rwanda—had agreed to accept deportees who are not their own citizens.¹ Since then,
12 ICE has carried out highly publicized third country deportations to South Sudan and
13 Eswatini. It also attempted—and completed—an “end-run” around the protections of
14 the Convention Against Torture by deporting a group of migrants to Ghana, which sent
15 them on to their countries of citizenship despite fears of persecution.

16 Punishment and deterrence appear to be the point of the Administration’s third
17 country removal scheme. The Administration has reportedly negotiated with countries
18 to have deportees imprisoned in prisons, camps, or other facilities. The government
19 paid El Salvador about \$5 million to arbitrarily and indefinitely imprison more than 200
20 deported Venezuelans in a maximum-security prison notorious for gross human rights
21 abuses, known as CECOT. In February, Panama and Costa Rica took in hundreds of
22 deportees from countries in Africa and Central Asia and imprisoned them in hotels, a
23 jungle camp, and a detention center. On July 4, 2025, ICE deported eight men,
24 including one pre-1995 Vietnamese refugee, to South Sudan. The men have been

25 ¹ Edward Wong, et al., *Inside the Global Deal-Making Behind Trump’s Mass*
26 *Deportations*, N.Y. Times (June 25, 2025), <https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html> [<https://perma.cc/64G9-XYGB>].

1 detained incommunicado ever since. On July 15, 2025, ICE deported five men to the
2 tiny African nation of Eswatini, including one man from Vietnam, where they are
3 reportedly being held in solitary confinement.

4 The Administration has hand-selected countries known for human rights abuses
5 and instability for these third country deportation agreements to frighten people in the
6 United States into self-deporting or to accept removal to their home countries. Indeed,
7 conditions in South Sudan are so extreme that the U.S. State Department website warns
8 Americans not to travel there, and if they do, to prepare their will, make funeral
9 arrangements, and appoint a hostage-taker negotiator first.

10 On July 9, 2025, ICE issued a new memo to staff instructing that when seeking
11 to remove an individual to a country not designated on that person's removal order, that
12 ICE may deport that person without any procedures for notice or an opportunity to be
13 heard if the State Department confirms that it has received diplomatic assurances that
14 individuals will not be persecuted or tortured. If no diplomatic assurances are received,
15 the ICE memo instructs officers to serve on the individual a Notice of Removal that
16 includes the intended country of removal. It instructs officers not to ask whether the
17 individual is afraid of removal to that country. It states that officers should "generally
18 wait at least 24 hours following service of the Notice of Removal before effectuating
19 removal" but that "[i]n exigent circumstances, [ICE] may execute a removal order six
20 (6) or more hours after service of the Notice of Removal as long as the [noncitizen] is
21 provided reasonable means and opportunity to speak with an attorney prior to removal."

22 The memo further instructs that if the noncitizen "does not affirmatively state a
23 fear of persecution or torture if removed to the country of removal listed on the Notice
24 of Removal within 24 hours, [ICE] may proceed with removal to the country identified
25 on the notice." If the noncitizen "does affirmatively state a fear if removed to the
26 country of removal," then ICE will refer the case to U.S. Citizenship and Immigration

1 Services ("USCIS") for a screening for eligibility for withholding of removal and
2 protection under the Convention Against Torture. "USCIS will generally screen within
3 24 hours." If USCIS determines that the noncitizen does not meet the standard, the
4 individual will be removed. If USCIS determines that the noncitizen has met the
5 standard, then the policy directs ICE to either move to reopen removal proceedings "for
6 the sole purpose of determining eligibility for [withholding of removal protection] and
7 CAT" or designate another country for removal.

8 The eight men who were ultimately deported to South Sudan all claimed fear of
9 removal to South Sudan. None of those men were provided a fear screening by a
10 USCIS officer or otherwise, despite the fact that they were held by ICE for six weeks
11 on a U.S. military base in Djibouti before their final removal to South Sudan.

12 The Law Governing Punitive Removal Practices

13 It is bedrock law that the U.S. government may not impose or inflict an infamous
14 punishment for violations of civil immigration law. In 1896, the U.S. Supreme Court
15 ruled that while deportation itself was not a punishment, the government could not
16 attach punitive conditions to deportation—in that case, imprisonment at hard labor—
17 absent a criminal charge, trial in a court of law, and the protections of the Fifth, Sixth,
18 and Eighth Amendments. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

19 Importantly, the Court drew a distinction between deportation, which the Court
20 reasoned is "not a 'banishment,' in the sense in which that word is often applied to the
21 expulsion of a citizen from his country by way of punishment," and government actions
22 aimed at punishment, such as imprisonment at hard labor in addition to deportation. *Id.*
23 at 236. The Court explained that deportation "is but a method of enforcing the return to
24 his own country of [a non-citizen] who has not complied with the conditions upon the
25 performance of which the government of the nation, acting within its constitutional
26 authority and through the proper departments, has determined that his continuing to

1 reside here shall depend.” *Id.* (quoting *Fong Yue Ting v. United States*, 149 U.S. 730
 2 (1893)). But the Court admonished that the government may not “declare unlawful
 3 residence within the country to be an infamous crime, punishable by deprivation of
 4 liberty and property . . . unless provision were made that the fact of guilt should first be
 5 established by a judicial trial.” *Id.* at 237.

6 Deportation of individuals to third countries to be imprisoned or harmed is
 7 unquestionably punishment.

8 Grounds for Relief

9 **Ground One: Petitioner’s Continued Detention in Immigration Custody** 10 **Violates the Due Process Clause of the Fifth Amendment to the U.S.** 11 **Constitution Because There Is No Significant Likelihood that Petitioner Will Be** 12 **Removed in the Reasonably Foreseeable Future.**

13 The allegations in the above paragraphs are realleged and incorporated herein.

14 Petitioner’s present detention is purportedly authorized under 8 U.S.C. § 1231.

15 Detention of non-citizens who have been ordered removed is mandatory during the so-
 16 called 90-day “removal period.” 8 U.S.C. § 1231(a)(1)(A). This period begins, as
 17 relevant here, on the “date the order of removal becomes administratively final.” 8

18 U.S.C. § 1231(a)(1)(B)(i). Because Petitioner’s was originally ordered removed on
 19 AUGUST 20th, 2018 and the IJ’s order deferring removal was final on AUGUST 20, 2018
 20 the removal period has long since expired and detention is no longer required under
 21 8 U.S.C. § 1231(a)(B)(ii).

22 Not only is detention no longer required, it is no longer allowed under the facts
 23 of this case. Given the “serious constitutional threat” the *Zadvydas* Court believed to be

24 ² A decision by an IJ becomes final “upon waiver of appeal or upon expiration of the
 25 time to appeal if no appeal is taken within that time.” 8 C.F.R. § 1003.39. The deadline
 26 for filing an appeal to the Board of Immigration Appeals is 30 days from the date of the
 decision. See 8 C.F.R. § 1003.38(b). Once final, a grant of deferral of removal prohibits
 removal to the country of feared persecution absent formal reopening and termination
 of that protection. See 8 CFR § 1208.17.

posed by the indefinite detention of aliens who had been admitted to the country under the Fifth Amendment's Due Process Clause, 553 U.S. at 699, the Court interpreted 8 U.S.C. 1231(a)(6) to permit only detention related to the statute's "basic purpose [of] effectuating an alien's removal[.]" *Id.* at 696-699. The Court further held that the presumptive period during which the detention is reasonably necessary to effectuate an alien's removal is six months; after that, the alien is eligible for conditional release if he can demonstrate that there is "no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. After the "presumptively reasonable" period of six months' detention, when the noncitizen can "provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," then "the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701. "A petitioner's total length of confinement need not be consecutive to reach the six-month presumptively reasonable limit established in *Zadvydas*." *Tang v. Bondi*, No. 2:25-CV-01473-RAJ-TLF, 2025 WL 2637750, at *4 (W.D. Wash. Sept. 11, 2025).

Here, the government cannot rebut the conclusion that Petitioner's continued detention in ICE custody violates the Due Process Clause of the Fifth Amendment under *Zadvydas*. See *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *28-29 (W.D. Wash. Aug. 21, 2025) (granting preliminary injunction requiring release under *Zadvydas*); *Tang*, dkt. 26 at 12 (same).

Ground Two: Violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture, Implementing Regulations, and the Administrative Procedure Act

The allegations in the above paragraphs are realleged and incorporated herein.

The Fifth Amendment, the INA, the CAT, and implementing regulations mandate meaningful notice and opportunity to respond to any attempt to remove Petitioner to a third country in reopened removal proceedings. They also require an opportunity for Petitioner to make a fear-based claim against removal to a third country

1 in reopened removal proceedings. Respondents' policy for third country removals
2 violates all of these laws because it directs ICE agents to remove individuals to third
3 countries without any notice or process *at all* where diplomatic assurances are received
4 and, where no diplomatic assurances are received, to provide flagrantly insufficient
5 notice (6–24 hours) and opportunity to respond, in violation of the statute, regulations,
6 and Fifth Amendment.

7 Prior to any third country removal, Petitioner must be provided with
8 constitutionally and statutorily compliant notice and an opportunity to respond and
9 contest that removal if he has a fear of persecution or torture in that country in reopened
10 removal proceedings. *See Nguyen*, 2025 WL 2419288, at *29 (granting preliminary
11 injunction against “removing Petitioner to a country other than [home country] without
12 notice and a meaningful opportunity to be heard in reopened removal proceedings with
13 a hearing before an immigration judge”).

14 **Ground Three: Punitive Third Country Banishment; Violation of Fifth and**
15 **Eighth Amendments**

16 The allegations in the above paragraphs are realleged and incorporated herein.

17 Under the Fifth Amendment to the U.S. Constitution, no person shall “be held to
18 answer for a capital, or otherwise infamous crime, unless on a presentment or
19 indictment of a Grand Jury;” “be subject for the same offence to be twice put in
20 jeopardy of life or limb;” or “be deprived of life, liberty, or property, without due
21 process of law.”

22 The Eighth Amendment provides that no “cruel and unusual punishments” may
23 be inflicted.

24 The U.S. Supreme Court long ago held that the government may not inflict upon
25 individuals an “infamous punishment” in addition to deportation as a penalty for an
26

1 immigration violation, absent criminal charges, a judicial trial, and attendant
2 constitutional protections. *Wong Wing*, 163 U.S. at 236–38.

3 Petitioner was convicted and completed any sentences for his criminal
4 convictions ^{years} ago. His convictions made him removable from the United States,
5 but the convictions do not authorize the government to inflict, as a matter of executive
6 policy and discretion, additional punishment on him. Respondents' third country
7 removal program is punitive in nature and execution.

8 The government has arranged for third countries to receive deportees and
9 imprison them on arrival, possibly indefinitely and often in abhorrent conditions. It has
10 selected countries notorious for human rights abuses and instability for third country
11 removal arrangements. It has targeted individuals with criminal convictions for third
12 country removals where they will be imprisoned and harmed and publicly broadcast
13 those removals to demonize and dehumanize the individuals subjected to these practices
14 and strike fear in the immigrant community to send a message of retribution and
15 deterrence.

16 Respondents' third country removal program is more than a publicity stunt. The
17 hundreds of individuals who have already been subjected to it have been banished in
18 foreign prisons upon arrival without charge and often without communication with the
19 outside world, including their families and lawyers. Respondents may not subject
20 Petitioner to its third country removal program designed to impose a severe punishment
21 on its subjects. *See id.* Such conduct "shocks the conscience" under Fifth Amendment
22 substantive due process, is cruel and unusual punishment, and may not be imposed
23 without charge and a judicial trial.

24 Respondents may not seek to remove Petitioner to a third country under their
25 punitive banishment policy and practices. *See Nguyen*, 2025 WL 2419288, at *29
26

(granting preliminary injunction against "removal Petitioner to any country where he is likely to face imprisonment upon arrival").

VERIFICATION

I, , do hereby aver that the words above are the truth and the entire truth, that I will testify to those facts under penalty of perjury and I provide this information based upon personal belief that they are the facts of this matter, except where stated on personal belief. Submitted under the penalty of perjury of the laws of the United States.

Dated this: 01/22/2026

Signed:

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned to the right of the word "Signed:".

Alireza Hamedani,

PROOF OF SERVICE

&

DECLARATION

I, Alireza Hamedani, AVER THAT I AM A PARTY TO THIS ACTION DO HEREBY
AVER THAT I HAVE PROVIDED A COPY OF THE FOREGOING DOCUMENT:

PETITION FOR WRIT OF HABEAS CORPUS

**U.S. District Court
Clerk's Office
1717 Pacific Avenue Room 3100
Tacoma, WA 98402**

I WILL TESTIFY UNDER THE PENALTY OF PERJURY THAT THIS IS THE
TRUTH.

THE ITEMS WERE MAILED FIRST CLASS MAIL ON THE DATE BELOW.

SUBMITTED ON 01/22/2026

Signed: 