

THE HONORABLE JAMAL N. WHITEHEAD  
THE HONORABLE JUDGE THERESA L. FRICKE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

|                       |   |                            |
|-----------------------|---|----------------------------|
| ALIREZA HAMEDANI,     | ) | No. CV25-2509-JNW-TLF      |
| Petitioner,           | ) |                            |
| v.                    | ) | COUNSELED REPLY TO FEDERAL |
| PAMELA BONDI, et al., | ) | RESPONDENTS' RETURN        |
| Respondents.          | ) | MEMORANDUM                 |

**I. INTRODUCTION**

Petitioner Alireza Hamedani filed a pro se writ of habeas corpus under 18 U.S.C. § 2241 asserting that his re-detention violates *Zadvydas v. Davis*, 533 U.S. 678 (2001), substantive due process, and procedural due process. Dkt. 7. Mr. Hamedani also filed a pro se motion for a temporary restraining order (TRO) requesting his immediate release based on the unlawfulness of his continued detention under *Zadvydas*. Dkt. 2. Although finding that “Hamedani has raised serious questions about the lawfulness of his continued detention under *Zadvydas*,” this Court denied the TRO given that “his request for immediate release constitutes the ultimate relief sought by his habeas petition . . . .” Dkt. 4 at 5. On January 22, 2026, this Court granted Mr. Hamedani’s motion to appoint counsel and appointed the Federal Public Defender’s Office to represent him. Dkt. 18.<sup>1</sup>

<sup>1</sup> On January 26, 2026, Mr. Hamedani filed a pro se reply to the government’s return response with the assistance of another detainee because he was unaware that his motion for appointment of counsel had been granted.

1 The government offers no response to any of Mr. Hamedani's claims other than  
2 to state that because he was re-detained on August 25, 2025 (and previously detained  
3 for five days), the presumptive six-month period has not expired. Dkt. 15 at 8. But as  
4 the government acknowledges, Judge Robart and other courts have held that "the  
5 *Zadvydas* grace period end[s] six months following the entry of the order of his removal  
6 and three months following his 90-day removal period," both of which occurred here in  
7 2018. *Tran v. Bondi*, 2025 WL 3140462, at \*3 (W.D. Wash. Nov. 10, 2025) (citing to  
8 *Zadvydas*, 533 U.S. at 701).

9 Mr. Hamedani has met his burden to show he has been held longer than the  
10 presumptively reasonable six months since his final removal order was issued in 2018  
11 and that his removal is not reasonably foreseeable. The government admits that he may  
12 not be removed to his country of origin, Iran. And although it has had over seven years  
13 to remove Mr. Hamedani, it is still only "presently *exploring* removal to Germany,  
14 Lebanon, and the UAE." Dkt. 16, ¶ 20 (emphasis added). The government presents no  
15 evidence that it has contacted these countries or that the countries will accept Mr.  
16 Hamedani's third country removal under 8 U.S.C. § 1231(b)(2)(E). On this bare record,  
17 the government has shown that it cannot meet its burden under *Zadvydas* and  
18 Mr. Hamedani must be ordered released on bond.

19 Should the Court disagree that the presumptive six-month period begins once the  
20 order of removal is entered, the Court should stay the issuance of its ruling until  
21 February 16, 2026, when Mr. Hamedani will have been re-detained for six months.<sup>2</sup>  
22 Finally, the government should also be enjoined from removing him to a third country  
23 without the procedural due process guarantees ordered by many other courts in this  
24 district.

25 <sup>2</sup> According to the government, before Mr. Hamedani was re-detained on August 21,  
26 2025, he was in custody for about "five days" after the issuance of his removal order.  
Dkt. 15 at 8.

## II. BACKGROUND FACTS

Mr. Hamedani is from Iran and his primary language is Farsi not English. He is married and has one child. He came to the United States on a tourist visa. Because he remained in the country after the visa expired, the Department of Homeland Security issued a Notice to Appear for removal on January 26, 2018. Dkt. 16, ¶ 6. On April 20, 2018, Mr. Hamedani was convicted of felony domestic violence in California and released to ICE custody on June 22, 2018. *Id.*, ¶¶ 7, 8. On August 20, 2018, an immigration court ordered Mr. Hamedani removed to Iran based on his conviction but granted him a deferral of removal after determining he would likely be tortured if returned to Iran. *Id.*, ¶¶ 9–10.

Mr. Hamedani was thereafter released on an Order of Supervision (OSUP) on August 23, 2018. *Id.*, ¶ 10. He was convicted of probation violations on November 21, 2018, and released to ICE custody on December 22, 2018. *Id.*, ¶ 11. ICE released him that same day on an OSUP. *Id.* Mr. Hamedani was arrested by ICE for allegedly assaulting a federal officer with his car and fleeing during one of its official operations. Dkt. 15 at 3. That charge was later dismissed without prejudice at the United States Attorney Office’s request. *Id.* at 3 n.2. On August 25, 2025, ICE took Mr. Hamedani into custody and served him with a Notice of Revocation of Release, stating that he was being detained “Following review of his immigration and criminal history.” *Id.* at 3. “ICE is presently *exploring* [petitioner’s] removal to Germany, Lebanon, and the [United Arab Emirates].” *Id.* at 4; Dkt. 16, ¶ 20 (emphasis added).

The government has submitted the Declaration of Deportation Officer Robert Andron. He avers that on “December 4, 2025, Petitioner refused to cooperate with ICE efforts to remove him,” and that they “served him with a Form I-229(a) Warning For Failure to Depart,” which he allegedly refused to sign. *Id.*, ¶ 21. The officer states that Mr. Hamedani was served with another “I-229(a)” on December 12 after he “refused to

1 cooperate in securing travel documents and did not supply any evidence as to why he  
 2 should be released from custody.” *Id.*, ¶ 22. Neither form Mr. Hamedani allegedly  
 3 refused to sign are part of the record.

### 4 **III. ARGUMENT**

#### 5 **A. Mr. Hamedani has met his burden under *Zadvydas*.**

6 Mr. Hamedani has met his burden to show a good reason to believe that “there is  
 7 no significant likelihood of removal in the reasonably foreseeable future.” *Nadarajah v.*  
 8 *Gonzales*, 443 F.3d 1069, 1077 (9th Cir. 2006); *see Zadvydas*, 553 U.S. at 701 (After  
 9 the presumptively reasonable period of detention of six months, “once the alien  
 10 provides good reason to believe that there is no significant likelihood of removal in the  
 11 reasonably foreseeable future, the Government must respond with evidence sufficient to  
 12 rebut that showing.”).

13 Mr. Hamedani’s final removal order was issued in August 2018, and he has been  
 14 re-detained since August 25, 2025. The *Zadvydas* grace period has thus long ended. *See*  
 15 *Tran*, 2025 WL 3140462, at \*3 (citing to *Zadvydas*, 553 U.S. at 701) (*Zadvydas*’  
 16 presumptive period ended six months “following the entry of the order of [petitioner’s]  
 17 removal and three months following his 90-day removal period[.]”). *See also Tadros v.*  
 18 *Noem*, No. CV25-4108-EP, 2025 WL 1678501, at \*3 (D.N.J. June 13, 2025) (finding  
 19 that the “six-month detention period under *Zadvydas*” began upon affirmance of  
 20 removal order, rejecting argument that petitioner could not obtain habeas relief because  
 21 he had not yet been in detention for six months); *Farez-Espinoza v. Chertoff*, 600  
 22 F.Supp.2d 488, 500 (S.D.N.Y. 2009) (concluding that presumptively reasonable six-  
 23 month period expired six months after entry of removal order, even though petitioner  
 24 was not in custody for any of that period). *But see Wana v. Bondi*, No. 2:25-cv-02321-  
 25 RSL, 2025 WL 3628634, at \*3 n.2 (W.D. Wash. Dec. 15, 2025) (disagreeing “with the  
 26

1 cases holding that the six-month period discussed in *Zadvydas* runs unabated from the  
2 moment a removal order becomes final”).

3 Mr. Hamedani has thus met his initial burden of showing that his detention is  
4 indefinite under *Zadvydas* and that there is “good reason to believe that there is no  
5 significant likelihood of removal in the reasonably foreseeable future” given that the  
6 government has failed to remove him since 2018. *Zadvydas*, 533 U.S. at 701. The  
7 government admits that Mr. Hamedani cannot be removed to Iran. He also “does not  
8 have citizenship or significant ties to any other country. Nor does the government  
9 present evidence that any country is willing to accept Petitioner’s third country removal  
10 under 8 U.S.C. § 1231(b)(2)(E).” *Elshourbagy v. Bondi*, No. 2:25-cv-02432-TL, 2025  
11 WL 3718993, at \*4 (W.D. Wash. Dec. 23, 2025).

12 **B. The government has failed to meet its burden of showing that**  
13 **Mr. Hamedani’s removal is substantially likely in the reasonably**  
14 **foreseeable future.**

15 With a petitioner’s preliminary showing of indefinite detention, the burden shifts  
16 to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701. Here, the  
17 government offers no evidence or argument as to why Mr. Hamedani may continue to  
18 be detained even though it concedes that he may not be removed to Iran and it has  
19 produced no evidence that the countries they are *exploring* as potential third countries  
20 for removal—Germany, Lebanon, or the United Arab Emirates—have agreed to accept  
21 him or that they have even been contacted by the government. The government also  
22 presents no information about the criteria the three countries apply in determining  
23 whether to issue a travel document and no showing of whether Mr. Hamedani fits those  
24 criteria. *See, e.g., Abubaka v. Bondi*, No. C25-1889RSL, 2025 WL 3204369, at \*5  
25 (W.D. Wash. Nov. 17, 2025) (finding that government cannot meet its burden where,  
26 *inter alia*, “[t]he government has not provided any evidence of Vietnam’s eligibility  
criteria or why it believes Petitioner now meets it.”) (quoting *Phong Thanh Nguyen v.*

1 *Scott*, No. 2:25-CV-01398-TMC, 2025 WL 2419288, at \*18 (W.D. Wash. Aug. 21,  
2 2025)). Indeed, the government makes no attempt to engage in *Zadvydas*'s burden-  
3 shifting analysis.

4 Nor does it provide any evidence that would show that petitioner's removal is  
5 reasonably foreseeable. That "ICE is actively seeking to execute Petitioner's removal  
6 order by *exploring* options to remove him to Lebanon, Germany, or the United Arab  
7 Emirates," dkt. 15 at 8 (emphasis added), does not make it foreseeable under *Zadvydas*.  
8 *See, e.g., Elshourbagy*, 2025 WL 3718993, at \*4 ("While Respondents provide thin  
9 assertions of 'intent' to remove Petitioner to Uganda or Mauritania . . . , they present no  
10 evidence at all that removal to either of these countries is possible, much less  
11 reasonably foreseeable."); *Tran v. Noem*, No. 1:25-cv-01523-TLN-CKD, 2025 WL  
12 3268491, at \*3 (E.D. Cal. Nov. 24, 2025) (assertion that government was "actively  
13 working on obtaining a travel document for Petitioner to Vietnam" was insufficient to  
14 show removal was reasonably foreseeable); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-  
15 JDP, 2025 WL 1993735, at \*5 (E.D. Cal. July 16, 2025) ("Respondents' intent to  
16 complete a travel document request for Petitioner does not make it significantly likely  
17 he will be removed in the foreseeable future."); *Hambarsonpour v. Bondi*, No. CV25-  
18 1802-RSM, 2025 WL 3251155, at \*2–\*3 (W.D. Wash. Nov. 21, 2025) (holding that a  
19 government argument that it was "actively working to effectuate his removal to France"  
20 was insufficient to render petitioner's removal reasonably foreseeable absent travel  
21 documents).

22 Under *Zadvydas*, the Supreme Court has made clear that the purpose of detention  
23 under the statute must be tied to the goal of removing the person from the United States,  
24 and if the detention is prolonged beyond the time necessary to complete that goal, the  
25 Due Process Clause places further limits on the detention. *Zadvydas*, 533 U.S. at 699.  
26 *Zadvydas* made clear that detention becomes "indefinite" when there is "good reason to

1 believe that there is no significant likelihood of removal in the reasonably foreseeable  
 2 future.” *Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008) (quoting *Zadvydas*, 533  
 3 U.S. at 701). Here, the government has failed to show that removal to any of the three  
 4 countries identified only for preliminary exploration is reasonably foreseeable. “There  
 5 is no evidence that steps have been taken to obtain a [German, Lebanese, or United  
 6 Arab Emirates] travel document for Petitioner, that [these countries have] any interest  
 7 in accepting Petitioner, or even that there has been any communication with [the  
 8 countries] regarding Petitioner at all.” *See, e.g., Eshourbagy*, 2025 WL 3718933, at \*4  
 9 (finding government failed to meet its burden where there was no evidence that  
 10 Petitioner “can or will be removed to Mauritania in the foreseeable future—only that  
 11 ERO ‘intends to’ take steps towards that end.”).

12 **C. Mr. Hamedani’s alleged non-cooperation does not impact his**  
 13 ***Zadvydas* claim.**

14 Although Officer Andron avers that Mr. Hamedani refused “to cooperate in  
 15 securing travel documents and did not supply any evidence as to why he should be  
 16 released from custody,” dkt. 16, ¶ 22, the government makes no argument whatsoever  
 17 addressing Mr. Hamedani’s alleged noncooperation. The government has thus waived  
 18 or forfeited any argument that his alleged noncooperation defeats his *Zadvydas* claim.  
 19 *See, e.g., Rodriguez-Zuniga v. Garland*, 69 F.4th 1012, 1023 (9th Cir. 2023) (a party  
 20 must “specifically and distinctly raise an argument and support it with citations to the  
 21 record” to avoid forfeiture) (internal quotation marks omitted); *Tibble v. Edison Int’l*,  
 22 843 F.3d 1187, 1193 (9th Cir. 2016) (“[A]n issue will generally be deemed  
 23 waived . . . if the argument was not raised sufficiently for the trial court to rule on it.”)  
 24 (citation omitted). *See also Yuksek v. Bondi*, No. 2:25-CV-02555-DGE-GJL, 2026 WL  
 25 60364, at \*5 (W.D. Wash. Jan. 8, 2026) (“Aside from arguing [that petitioner’s claim is  
 26 barred by other litigation], Respondents do not substantively challenge Petitioner’s third

1 country removal due process claim. Therefore, the Court concludes Petitioner is  
2 entitled” to injunctive relief) (record citation omitted).

3 Even if this Court considered Officer Andron’s bare statement—unsupported by  
4 any corroborating documentation—that Mr. Hamedani’s “refused to cooperate with  
5 ICE efforts to remove him,”<sup>3</sup> dkt. 16, ¶ 21, that is not the end of the matter. Where the  
6 issue is not just the statutory provision of 8 U.S.C. § 1231(a)(1)(C), but the interaction  
7 of that statute with *Zadvydas*, the non-cooperation must be the cause of the delay. For  
8 example, in *Ghasedi v. Wamsley*, No. 2:25-cv-01984-RSM-BAT, 2025 WL 3699705, at  
9 \*6 (W.D. Wash. Dec. 1, 2025), the court rejected the government’s argument that  
10 petitioner’s failure to cooperate in obtaining a travel document to Iran defeated his  
11 *Zadvydas* claim. The court acknowledged that in *Lema v. I.N.S.*, 341 F.3d 853 (9th Cir.  
12 2003), the Ninth Circuit had held that the petitioner could not meet his *Zadvydas* burden  
13 based on the petitioner’s non-cooperation but pointed to the egregious facts in *Lema*  
14 showing the connection between the non-cooperation and the delay. The court noted  
15 that in *Lema*, there was evidence that petitioner had “repeatedly obstructed removal  
16 efforts by lying about his nationality, refus[ed] to accept a letter requiring him to apply  
17 for travel documents, refus[ed] to provide the government with relevant documents, and  
18 refus[ed] to contact the consulate.” *Id.* at \*6. The court held that “by contrast, [as here,]  
19 the bare allegation that [petitioner] was ‘determined as not being cooperative,’ without  
20 details is insufficient to defeat his *Zadvydas* claim.” *Id.*

21 Here, Officer Andron provides no specific details about Mr. Hamedani’s non-  
22 cooperation except to say, without providing any corroborating documentation, that he  
23

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24 <sup>3</sup> Mr. Hamedani disputes that he knowingly refused to cooperate. As noted above, while  
25 Mr. Hamedani speaks and understands some English, the undersigned counsel observed  
26 that is not fluent in English. In fact, during counsel’s initial conversation with  
Mr. Hamedani, he asked for a Farsi interpreter because he did not fully understand  
counsel.

1 refused to sign the “Form I-229(a) Warning for Failure to Depart.” Dkt. 16, ¶ 21. But  
2 there is nothing to suggest (nor even any argument made) that Mr. Hamedani’s alleged  
3 refusal to sign this document has delayed or hindered the government’s ability to  
4 request travel documents from Germany, Lebanon, and the UAE, particularly given  
5 Officer Andron’s admission that ICE is merely “exploring” removal to these countries.  
6 *Id.*, ¶ 20.

7 Thus, even if this Court found, despite the lack of support in the record, that  
8 Mr. Hamedani refused to cooperate, there is no connection between his alleged non-  
9 cooperation and the government’s ability to proceed. It thus does not affect his  
10 *Zadvydas* claim.

11 **D. Mr. Hamedani is entitled to an injunction barring deportation to a**  
12 **third country without notice and a meaningful opportunity to be**  
13 **heard.**

14 The government again offers no argument against Mr. Hamedani’s procedural  
15 due process claim. Thus, any argument against that claim has been forfeited or waived.

16 As courts in this district have done, this Court too should issue an order  
17 preventing the government from removing Mr. Hamedani to a third country without  
18 notice and meaningful opportunity to respond in reopened removal proceedings in  
19 compliance with the statute and due process. Further, the Court should order the  
20 government not to remove Mr. Hamedani to any third country where he would be  
21 subject to persecution, imprisonment, or other harms without an opportunity to respond  
22 and contest that removal in reopened removal proceedings. Although Mr. Hamedani’s  
23 pro se petition raises a “procedural due process claim” without referring to its  
24 application to third country removal, a document filed pro se is “to be liberally  
25 construed,” *Estelle v. Gamble*, 429 U.S. 97, 106 (1976), and “a pro se complaint,  
26 however inartfully pleaded, must be held to less stringent standards than formal

1 pleadings drafted by lawyers,” *id.* (internal quotation marks omitted). *Cf.*, Fed. R. Civ.  
2 Proc. 8(f) (“All pleadings shall be so construed as to do substantial justice”).

3 Multiple courts have held that the government must reopen removal proceedings  
4 and provide notice and an opportunity to be heard before removing or attempting to  
5 remove a petitioner to a third country and that the government’s third-country removal  
6 policy imposes unconstitutional punishment and cannot be applied as written. For  
7 example, in *Khim*, No. 2:25-cv-02383-RSL, 2025 WL 3653724 (W.D. Wash. Dec. 17,  
8 2025), the court pointing to ICE’s July 9, 2025, internal memorandum regarding third-  
9 country removals (attached here as Exhibit 1), held that “[t]hat memorandum, in  
10 conjunction with the likelihood that Mr. Khim will not be issued travel documents to  
11 Cambodia in the near future, the recent third-country deportations of hundreds of  
12 immigrants under ICE’s new policies, and ICE’s bald assertion that it may be able to  
13 obtain travel documents from Thailand give rise to an imminent threat that Mr. Khim  
14 will face third-country removal in the absence of an injunction.” *Id.* at \*4. *Wana*, 2025  
15 WL 3628634, at \*5–6 (prohibiting government from removing petitioner to a third  
16 country without notice and a meaningful opportunity to be heard in reopened removal  
17 proceedings before an immigration judge and removing him to any country where he is  
18 likely to face imprisonment or other punishment upon arrival); *Hieu Tri Nguyen v.*  
19 *Bondi*, No. 2:25-cv-02024-TL, 2025 WL 3534168, at \*6–10 (W.D. Wash. Dec. 10,  
20 2025) (same); *Baltodano v. Bondi*, No. C25-1958RSL, 2025 WL 3484769, at \*7–10  
21 (W.D. Wash. Dec. 4, 2025) (same).

22 As multiple courts have ordered, this Court should grant Mr. Hamedani relief on  
23 his procedural due process claim and order that the government be enjoined from  
24 deporting him to a third country without notice and a meaningful opportunity to be  
25 heard. He should also be allowed the opportunity to contest any third country if he has a  
26

1 fear of persecution, torture, imprisonment or other punishment in that country at  
2 reopened removal proceedings. *See, e.g., Wana*, 2025 WL 3628634, at \*6.

3 **E. In releasing Mr. Hamedani, the Court should impose the conditions**  
4 **on the government as imposed in *Do v. Scott and Tang v. Bondi*.**

5 If this Court orders Mr. Hamedani's immediate release as requested, the Court  
6 should also order the requirements similar to those imposed in *Do v. Scott*, No. C25-  
7 2187RSL, 2025 3496909 (W.D. Wash. Dec. 5, 2025). There, the court granted the  
8 petitioner's petition for writ of habeas corpus and ordered that:

9 (1) petitioner shall continue under the same conditions of her prior Order  
10 of Supervision; and (2) Respondents may not re-detain petitioner unless:

11 a. She violates a condition of her Order of Supervision; or

12 b. The government (1) obtains a valid travel document to Vietnam for  
13 her, (2) provides the valid travel document to her and her counsel, (3)  
14 offers petitioner the opportunity to leave on her own within two months,  
15 and (4) petitioner does not leave. Under such circumstances, the  
16 government may be permitted to re-detain petitioner provided it has  
already made concrete arrangements for her to be put on a flight to  
Vietnam in the reasonably foreseeable future.

17 *Id.* at \*6.

18 DATED this 29th day of January 2026.

19 Respectfully submitted,

20 s/ Vicki W.W. Lai  
21 Assistant Federal Public Defender  
Attorney for Alireza Hamedani

22 I certify this reply contains 3,295 words in compliance with the Local Civil Rules.  
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