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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 **PATRIS LABULO,¹**
14 **Petitioner,**

15 v.

16 **KRISTI NOEM, Secretary of the**
17 **Department of Homeland Security,**
18 **PAMELA JO BONDI, Attorney General,**
19 **TODD M. LYONS, Acting Director,**
20 **Immigration and Customs Enforcement,**
JESUS ROCHA, Acting Field Office
Director, San Diego Field Office,
CHRISTOPHER LAROSE, Warden at
Otay Mesa Detention Center,

21 **Respondents.**

CIVIL CASE NO.: '25CV3602 BAS SBC

**Petition for Writ
of
Habeas Corpus**

**[Civil Immigration Habeas,
28 U.S.C. § 2241]**

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28 ¹ Federal Defenders of San Diego, Inc., is filing the instant petition with provisional appointment under Chief Judge Order No. 134.

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1 **I. Introduction**

2 Mr. Labulo was born in 1989 in what was then part of Sudan but is now the
3 separate country of South Sudan. Mr. Labulo left with his uncle's family and
4 came to the United States as a refugee in 2002. Soon after, he received lawful
5 permanent residence.

6 Due to a criminal conviction, Mr. Labulo was ordered removed, but the
7 immigration judge granted him relief under the Convention Against Torture
8 (CAT) in 2022 that prevented him from being removed to South Sudan. The
9 government detained him for about four months while it attempted to remove
10 him. But the CAT protection prevented his removal to South Sudan, and Sudan
11 did not recognize him as a citizen. So after spending about four months in ICE
12 custody, Mr. Labulo was released on an order of supervision.

13 Mr. Labulo remained on supervision for the next several years. He checked
14 in with ICE every year without incident and has had no new criminal convictions.
15 But while he was in the process of applying for a new work permit, USCIS sent
16 him a letter requesting that he come in to fix an error regarding his date of birth.
17 On August 17, 2025, he mistakenly went to the ICE office, rather than the USCIS
18 office, and ICE re-detained him. Contrary to regulation, ICE did not notify
19 Mr. Labulo of any changed circumstances that made his removal more likely, like
20 receiving news from Sudan that it would now accept Mr. Labulo despite not
21 accepting him several years ago.

22 Mr. Labulo's detention violates his statutory and regulatory rights,
23 *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment. Courts in this
24 district have agreed in similar circumstances as to both of Mr. Labulo's claims.
25 Specifically:

26 (1) *Regulatory and due process violations*: Mr. Labulo must be released
27 because ICE's failure to follow its own regulations about notice and an
28 opportunity to be heard violate due process. *See, e.g., Constantinovici v. Bondi*,

1 ___ F. Supp. 3d ___, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10,
2 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal.
3 Sept. 15, 2025); *Labulo v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-
4 MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-
5 cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Labulo v. Noem*, 2025 WL
6 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*,
7 No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang*
8 *v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025)
9 *Sphabmixay v. Noem*, 25-cv-2648-LL-VET (S.D. Cal. Oct. 30, 2025); *Sayvongsa*
10 *v. Noem*, 25-cv-2867-AGS-DEB (S.D. Cal. Oct. 31, 2025); *Thammavongsa v.*
11 *Noem*, 25-cv-2836-JO-AHG (S.D. Cal. Nov. 3, 2025); *Phakeokoth v. Noem*, 25-
12 cv-2817-RBM-SBC (S.D. Cal. Nov. 7, 2025); *Soryadvongsa v. Noem*, 25-cv-
13 2663-AGS-DDL (S.D. Cal. Nov. 8, 2025) (all either granting temporary
14 restraining orders releasing noncitizens, or granting habeas petitions outright, due
15 to ICE regulatory violations during recent re-detentions of released noncitizens
16 previously ordered removed).

17 (2) *Zadvydas violations*: Mr. Labulo must also be released under *Zadvydas*
18 because—having proved unable to remove him for the last 20 years—the
19 government cannot show that there is a “significant likelihood of removal in the
20 reasonably foreseeable future.” *Id.* at 701. *See, e.g., Conchas-Valdez*, 2025 WL
21 2884822, No. 25-cv-2469-DMS (S.D. Cal. Oct. 6, 2025); *Rebenok v. Noem*, No.
22 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept. 25, 2025) (granting habeas
23 petitions releasing noncitizens due to *Zadvydas* violations).

24 This Court should grant this habeas petition and issue appropriate
25 injunctive relief on both grounds.

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1 **II. Statement of Facts**

2 Mr. Labulo was born in 1989 in what was then part of Sudan but is now the
3 separate country of South Sudan. Declaration of Patris Labulo, Exhibit A at ¶ 1.

4 Mr. Labulo left with his uncle's family and came to the United States as a refugee
5 in 2002. *Id.* at ¶ 1. After arriving in the United States, he adjusted his status to that
6 of a lawful permanent residence. *Id.* at ¶ 1.

7 Due to a 2018 assault conviction, Mr. Labulo was placed in removal
8 proceedings and ordered removed on January 12, 2022. *Id.* at ¶ 2, 3. However, the
9 immigration judge granted him protection under the Convention Against Torture,
10 which meant that he could not be removed to South Sudan. *Id.* at ¶ 3. The
11 government detained him for about four months while it attempted to remove
12 him. *Id.* at ¶ 4. But the government could not remove him to South Sudan
13 because of the judge's CAT order, and it could not remove him to Sudan because
14 the government of Sudan did not recognize him as a citizen. *Id.* at ¶ 3. So after
15 spending about four months in ICE custody, Mr. Labulo was released on an order
16 of supervision. *Id.* at ¶ 4.

17 Mr. Labulo remained on supervision for the next several years. He checked
18 in with ICE every year without incident and has had no new criminal convictions.
19 *Id.* at ¶ 5. But while he was in the process of applying for a new work permit,
20 USCIS sent him a letter requesting that he come in to fix an error regarding his
21 date of birth. *Id.* at ¶ 6. On August 17, 2025, he mistakenly went to the ICE office,
22 rather than the USCIS office, and ICE re-detained him. *Id.* at ¶ 6. Contrary to
23 regulation, ICE did not notify Mr. Labulo of any changed circumstances that
24 made his removal more likely, like receiving news from Sudan that it would now
25 accept Mr. Labulo despite not accepting him several years ago. *Id.* at ¶ 6. ICE also
26 did not provide him any notice or give him an interview or an opportunity to
27 contest his detention. *Id.*

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1 **III. Legal Analysis.**

2 This Court should grant this petition and order Mr. Labulo’s immediate
3 release. ICE failed to follow its own regulations requiring changed circumstances
4 before re-detention, as well as a chance to promptly contest a re-detention
5 decision. And *Zadvydas v. Davis* holds that immigration statutes do not authorize
6 the government to detain immigrants like Mr. Labulo, for whom there is “no
7 significant likelihood of removal in the reasonably foreseeable future.” 533 U.S.
8 678, 701 (2001).

9 **A. Claim One: ICE failed to comply with its own regulations when**
10 **it re-detained Mr. Labulo, violating his rights under applicable**
11 **regulations and due process.**

12 Two regulations establish the process due to someone who is re-detained in
13 immigration custody following a period of release. 8 C.F.R. § 241.4(I) applies to
14 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping
15 framework to persons released upon good reason to believe that they will not be
16 removed in the reasonably foreseeable future, as Mr. Labulo was. *See Phan v.*
17 *Noem*, 2025 WL 2898977, No. 25-CV-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct.
18 10, 2025) (explaining this regulatory framework and granting a habeas petition for
19 ICE’s failure to follow these regulations for a refugee of Vietnam who entered the
20 United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL
21 2646165 at *2 (same as to an Iranian national).

22 These regulations permit an official to “return [the person] to custody” only
23 when the person “violate[d] any of the conditions of release,” 8 C.F.R.
24 §§ 241.13(i)(1), 241.4(I)(1), or, in the alternative, if an appropriate official
25 “determines that there is a significant likelihood that the alien may be removed in
26 the reasonably foreseeable future,” and makes that finding “on account of
27 changed circumstances,” 8 C.F.R. § 241.13(i)(2).

28 No matter the reason for re-detention, the re-detained person is entitled to
certain procedural protections. For one, “[u]pon revocation,” the noncitizen “will

1 be notified of the reasons for revocation of his or her release or parole.” *Phan*,
2 2025 WL 2898977 at *3, *4 (quoting §§ 241.4(l)(1), 241.13(i)(3)). Further, the
3 person ““will be afforded an initial informal interview promptly after his or her
4 return’ to be given ‘an opportunity to respond to the reasons for revocation stated
5 in the notification.” *Id.*

6 In the case of someone released under § 241.13(i), the regulations also
7 explicitly require the interviewer to allow the re-detained person to “submit any
8 evidence or information that he or she believes shows there is no significant
9 likelihood he or she be removed in the reasonably foreseeable future, or that he or
10 she has not violated the order of supervision.” § 241.13(i)(3).

11 ICE is required to follow its own regulations. *United States ex rel. Accardi*
12 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,
13 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to
14 abide by certain internal policies is well-established.”). A court may review a re-
15 detention decision for compliance with the regulations, and “where ICE fails to
16 follow its own regulations in revoking release, the detention is unlawful and the
17 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4
18 (collecting cases); *accord Phan*, 2025 WL 2898977 at *5.

19 ICE followed none of its regulatory prerequisites to re-detention here.

20 First, ICE did not identify a proper reason under the regulations to re-detain
21 Mr. Labulo. Mr. Labulo was not returned to custody because of a conditions
22 violation, and there was apparently no determination before or at his arrest that
23 there are “changed circumstances” such that there is “a significant likelihood that
24 [Mr. Labulo] may be removed in the reasonably foreseeable future.” 8 C.F.R.
25 § 241.13(i)(2).

26 Second, ICE did not notify Mr. Labulo of the reasons for his re-detention
27 upon revocation of release. *See* 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). He was re-

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1 detained on August 17, 2025. Exh. A at ¶ 5. As he has explained, “[t]hey did not
2 tell me why they were revoking my supervision.” *Id.* at ¶ 6.

3 Third, Mr. Labulo does not believe he received an informal interview
4 where an officer explained the purported “changed circumstances” underlying his
5 revocation. “Simply to say that circumstances had changed or there was a
6 significant likelihood of removal in the foreseeable future is not enough.” *Sarail*
7 *A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673, at *3 (D. Minn. Sept. 3, 2025).
8 Rather, “Petitioner must be told *what* circumstances had changed or *why* there
9 was now a significant likelihood of removal in order to meaningfully respond to
10 the reasons and submit evidence in opposition, as allowed under § 241.13(i)(3).”
11 *Id.* By “identif[ying] the category—‘changed circumstances’—but fail[ing] to
12 notify [Petitioner] of the reason—the circumstances that changed and created a
13 significant likelihood of removal in the reasonably foreseeable future—[ICE]
14 failed to follow the relevant regulation.” *Id.* This failure to identify any changed
15 circumstances also means he has he been afforded a meaningful opportunity to
16 respond to the reasons for revocation or submit evidence rebutting his re-
17 detention. Exh. A at ¶ 6.

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1 Numerous courts have released re-detained immigrants after finding that
2 ICE failed to comply with applicable regulations this summer and fall. These have
3 included courts in this district,² as well as courts outside this district.³

4 “[B]ecause officials did not properly revoke petitioner’s release pursuant to
5 the applicable regulations, that revocation has no effect, and [Mr. Labulo] is
6 entitled to his release (subject to the same Order of Supervision that governed his
7 most recent release).” *Liu*, 2025 WL 1696526, at *3.

8 **B. Claim Two: Mr. Labulo’s detention violates *Zadvydas* and 8**
9 **U.S.C. § 1231.**

10 1. Legal background

11 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
12 a problem affecting people like Mr. Labulo: Federal law requires ICE to detain an
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14 _____
15 ² *Constantinovici v. Bondi*, ___ F. Supp. 3d ___, 2025 WL 2898985, No. 25-cv-
16 2405-RBM (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-
17 RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025); *Labulo v. Noem*, 2025 WL
18 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Sun v.*
19 *Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van*
20 *Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29,
21 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10,
22 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D.
23 Cal. Oct. 9, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal.
24 Oct. 10, 2025); *Sphabmixay v. Noem*, 25-cv-2648-LL-VET (S.D. Cal. Oct. 30,
25 2025); *Sayvongsa v. Noem*, 25-cv-2867-AGS-DEB (S.D. Cal. Oct. 31, 2025);
26 *Thammavongsa v. Noem*, 25-cv-2836-JO-AHG (S.D. Ca. Nov. 3, 2025) (same);
27 *Phakeokoth v. Noem*, 25-cv-2817-RBM-SBC (S.D. Cal. Nov. 7, 2025);
28 *Soryadvongsa v. Noem*, 25-cv-2663-AGS-DDL (S.D. Cal. Nov. 8, 2025).

³ *Grigorian*, 2025 WL 2604573; *Delkash v. Noem*, 2025 WL 2683988; *Ceesay v.*
Kurzdorfer, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F.
Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387
(D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352,
at *7–9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA,
2025 WL 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No.
9:25-CV-00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025);
Hoac v. Becerra, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D.
Cal. July 16, 2025); *Liu*, 2025 WL 1696526, at *2; *M.Q. v. United States*, 2025
WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

1 immigrant during the “removal period,” which typically spans the first 90 days
2 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-
3 day removal period expires, detention becomes discretionary—ICE may detain
4 the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily,
5 this scheme would not lead to excessive detention, as removal happens within
6 days or weeks. But some detainees cannot be removed quickly. Perhaps their
7 removal “simply require[s] more time for processing,” or they are “ordered
8 removed to countries with whom the United States does not have a repatriation
9 agreement,” or their countries “refuse to take them,” or they are “effectively
10 ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v. Ashcroft*,
11 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained
12 immigrants can find themselves trapped in detention for months, years, decades,
13 or even the rest of their lives. If federal law were understood to allow for
14 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
15 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
16 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.
17 *Id.* at 689.

18 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to
19 detain an immigrant for 180 days after his or her removal order becomes final.
20 After those 180 days have passed, the immigrant must be released unless his or
21 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six
22 months have passed, the petitioner must only make a prima facie case for relief—
23 there is “good reason to believe that there is no significant likelihood of removal
24 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the
25 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*

26 Further, even before the 180 days have passed, the immigrant must still be
27 released if he *rebut*s the presumption that his detention is reasonable. *See, e.g.,*
28 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases

1 on rebutting the *Zadvydas* presumption before six months have passed); *Zavvar v.*
2 *Scott*, Civil No. 25-2104-TDC, 2025 WL 2592543, *6 (D. Md. Sept. 8, 2025)
3 (finding the presumption rebutted for a person who was immediately released
4 after being ordered removed and, years later, re-detained for less than six months).

5 Mr. Labulo can make all the threshold showings needed to prove his
6 *Zadvydas* claim and shift the burden to the government.

7 **C. Mr. Labulo’s six-month grace period expired in 2022.**

8 The six-month grace period has long since ended. The *Zadvydas* grace
9 period is linked to the date the final order of removal is issued. It lasts for “six
10 months after a final order of removal—that is, *three months* after the statutory
11 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th
12 Cir. 2001); *see also* 8 U.S.C. § 1231(a)(1)(B) (linking the statutory removal
13 period to issuance of the final order and other proceedings associated with the
14 original removal order).

15 Here, Mr. Labulo’s order of removal was entered in January 2022. Exh. A
16 at ¶ 3. Accordingly, his 90-day removal period began then. 8 U.S.C.
17 § 1231(a)(1)(B). The *Zadvydas* grace period thus expired in July 2022, three
18 months after the removal period ended. *See, e.g., Tadros v. Noem*, 2025 WL
19 1678501, No. 25-cv-4108(EP), *2–*3.⁴

20 _____
21 ⁴ The government has sometimes argued that release and rearrest resets the six-
22 month grace period completely, taking the clock back to zero. “Courts . . . broadly
23 agree” that this is not correct. *Diaz-Ortega v. Lund*, 2019 WL 6003485, at *7 n.6
24 (W.D. La. Oct. 15, 2019), *report and recommendation adopted*, 2019 WL
6037220 (W.D. La. Nov. 13, 2019); *see also Sied v. Nielsen*, No. 17-CV-06785-
LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018) (collecting cases).

25 It has also sometimes argued that rearrest creates a new three-month grace
26 period. As a court explained in *Bailey v. Lynch*, that view cannot be squared with
27 the statutory definition of the removal period in 8 U.S.C. § 1231(a)(1)(B). No. CV
28 16-2600 (JLL), 2016 WL 5791407, at *2 (D.N.J. Oct. 3, 2016). “Pursuant to the
statute, the removal period, and in turn the [six-month] presumptively reasonable
period, begins from the latest of ‘the date the order of removal becomes
administratively final,’ the date of a reviewing court’s final order where the
removal order is judicially removed and that court orders a stay of removal, or the

1 **D. Mr. Labulo’s grant of CAT relief to South Sudan and lack of**
2 **citizenship in Sudan provide good reason to believe that he will**
3 **not likely be removed in the reasonably foreseeable future.**

4 This Court uses a burden-shifting framework to evaluate Mr. Labulo’s
5 *Zadvydas* claim. At the first stage of the framework, Mr. Labulo must “provide[]
6 good reason to believe that there is no significant likelihood of removal in the
7 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard can be
8 broken down into three parts.

9 **“Good reason to believe.”** The “good reason to believe” standard is a
10 relatively forgiving one. “A petitioner need not establish that there exists no
11 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
12 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
13 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
14 foreseeable, significant likelihood of removal or show that his detention is
15 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
16 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
17 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
18 Petitioners need only give a “good reason”—not prove anything to a certainty.

19 **“Significant likelihood of removal.”** This component focuses on whether
20 Mr. Labulo will likely be removed: Continued detention is permissible only if it is
21 “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*, 533 U.S.
22 at 701. This inquiry targets “not only the *existence* of untapped possibilities, but
23 also [the] probability of *success* in such possibilities.” *Elashi v. Sabol*, 714 F.
24 Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In other words,

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26 alien's release from detention or confinement where he was detained for reasons
27 other than immigration purposes at the time of his final order of removal.” *Id.*
28 None of these statutory starting points have anything to do with whether or when
 an immigrant is detained. *See id.* Because the statutorily-defined removal period
 has nothing to do with release and rearrest, releasing and rearresting the
 immigrant cannot reset the removal period.

1 even if “there remains *some* possibility of removal,” a petitioner can still meet its
2 burden if there is good reason to believe that successful removal is not
3 significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL
4 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

5 “**In the reasonably foreseeable future.**” This component of the test
6 focuses on when Mr. Labulo will likely be removed: Continued detention is
7 permissible only if removal is likely to happen “in the reasonably foreseeable
8 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
9 removal efforts. If the Court has “no idea of when it might reasonably expect
10 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
11 is likely to occur—or even that it might occur—in the reasonably foreseeable
12 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
13 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
14 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d
15 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Labulo
16 “would *eventually* receive” a travel document, he can still meet his burden by
17 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
18 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

19 Mr. Labulo satisfies this standard for two reasons.

20 First, Mr. Labulo has been granted CAT protection that prevents his
21 removal to South Sudan—the place where he was born. Exh. A at ¶ 3. Thus,
22 immigration law and the U.S.’s treaty obligations under the Convention Against
23 Torture preclude any possibility that he will be removed to the country where he
24 is a citizen.

25 Second, Mr. Labulo’s personal experience shows that the government of
26 Sudan has been unwilling to accept him. In 2022, the government attempted to
27 remove Mr. Labulo to Sudan, but Sudan refused to accept him. Exh. A at ¶ 4.
28 Presumably, no other country will accept him either, since ICE has now had three

1 years to deport him to any country but has not been able to. Thus, there is good
2 reason to believe that there is not a significant likelihood of removal in the
3 reasonably foreseeable future.

4 Because Mr. Labulo has met his initial burden, the burden shifts to the
5 government. Unless the government can prove a “significant likelihood of
6 removal in the reasonably foreseeable future,” Mr. Labulo must be released.
7 *Zadvydas*, 533 U.S. at 701.

8 **IV. This Court must hold an evidentiary hearing on any disputed facts.**

9 Resolution of a prolonged-detention habeas petition may require an
10 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).

11 Mr. Labulo hereby requests such a hearing on any material, disputed facts.

12 **V. Prayer for relief**

13 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 14 1. Order and enjoin Respondents to immediately release Petitioner from
15 custody;
- 16 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
17 § 1231(a)(6) unless and until Respondents obtain a travel document for
18 his removal;
- 19 3. Enjoin Respondents from re-detaining Petitioner without first following
20 all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other
21 applicable statutory and regulatory procedures;
- 22 4. Order all other relief that the Court deems just and proper.

23 Respectfully submitted,

24
25 Dated: December 15, 2025

s/ Kara Hartzler

Federal Defenders of San Diego, Inc.
Attorneys for Mr. Labulo
Email: kara_hartzler@fd.org

EXHIBIT A

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

11 **PATRIS LABULO,**
12 **Petitioner,**

13 **v.**

14 **KRISTI NOEM, Secretary of the**
15 **Department of Homeland Security,**
16 **PAMELA JO BONDI, Attorney General,**
17 **TODD M. LYONS, Acting Director,**
18 **Immigration and Customs Enforcement,**
19 **JESUS ROCHA, Acting Field Office**
20 **Director, San Diego Field Office,**
21 **CHRISTOPHER LAROSE, Warden at**
22 **Otay Mesa Detention Center,**

23 **Respondents.**

Civil Case No.:

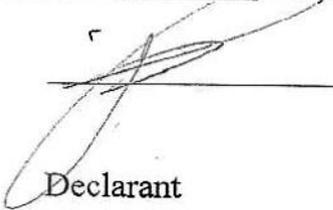
Declaration of
Patris Labulo
in Support of Petition
for a Writ of Habeas Corpus

1 I, Patris Labulo, declare:
2

- 3 1. I was born in 1989 in what is now South Sudan. At the time of my birth, it
4 was part of Sudan. I came to the United States in 2002 as a refugee. I
5 became a lawful permanent resident within several years.
- 6 2. In 2018, I was convicted of an assault. As a result of this conviction, I was
7 put into removal proceedings.
- 8 3. On January 12, 2022, an immigration judge ordered me removed but
9 granted me relief under the Convention Against Torture. This relief
10 prohibited the government from deporting me to South Sudan.
- 11 4. After I was ordered removed, I remained in custody for about four months.
12 Because Sudan would not accept me, ICE finally released me on an order
13 of supervision.
- 14 5. Since my release from ICE custody, to the best of my knowledge, I have
15 not been convicted of any other crimes and I have never missed a check-in
16 appointment.
- 17 6. This year I applied for a new work permit and received a letter saying that I
18 had to come into USCIS to fix an error regarding my date of birth. Because
19 I had heard lots of news reports, I wanted to come in before ICE came to
20 arrest me. But on August 17, 2025, I mistakenly went to the ICE office,
21 rather than the USCIS office, and ICE took me into custody. They did not
22 tell me why they were revoking my supervision, nor did they give me an
23 informal interview or a chance to contest my detention.
- 24 7. Prior to my detention, I was working as a cook at a restaurant. I do not
25 make enough money to hire a lawyer.
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I declare under penalty of perjury that the foregoing is true and correct,
executed on 12-14-25, in San Diego, California.



Declarant