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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 Mahamat Rozi,
13 Petitioner,
14 v.
15 John Mattos, NSDC Warden; Michael
16 Bernacke, Field Director, West Valley City
17 Office of ICE ERO; Todd Lyons, ICE
Acting Director; Kristi Noem DHS
18 Secretary; Pam Bondi, U.S. Attorney
General
19 Respondents.

Case No. 2:25-cv-02557-GMN-MDC
First Amended § 2241 Petition

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INTRODUCTION

Petitioner Mahamat Arawai Rozi was ordered removed to Chad back in 2018, but the government was unable to do so for nearly two years. Rozi was re-detained February 2025. In total he has spent nearly three years in custody with no end in sight. The statutory 90-day window to remove Rozi has long ended. Respondents' detention of Rozi is an egregious violation of the Constitution, the Immigration and Nationality Act, and their own policies and regulations. He must be released immediately.

JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. §2241 (granting general habeas authority to district courts); Art. 1 § 9, cl. 2 of the U.S. Constitution (the "Suspension Clause"); 28 U.S.C. §1331 (federal question jurisdiction); and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *Zadvydas v. Davis*, 533 U.S. 678 (2001). Federal courts also have federal question jurisdiction, through the APA to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable in habeas. 5 U.S.C. § 703. The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. Petitioner's continued detention violates his constitutional due process rights, constitutes arbitrary and capricious agency action, and is an abuse of discretion.

Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at Nevada Southern Detention Center.

Accordingly, Petitioner's habeas petition is properly before this court.

PARTIES

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2 Mahamat Rozi is a native and citizen of China who was ordered removed on
3 February 6, 2018. He is currently detained at the Nevada Southern Detention
4 Center in Pahrump, Nevada.

5 John Mattos is the warden of Nevada Southern Detention Center. Mattos, in
6 his official capacity, is the immediate custodian of Petitioner.

7 Michael Bernacke is the Field Director of the West Valley City Office of
8 Immigration and Customs Enforcement (ICE) Enforcement and Removal
9 Operations, which has jurisdiction of enforcement and removal operations over
10 detention facilities in Nevada, including Nevada Southern Detention Center where
11 Petitioner is detained. Bernacke, in his official capacity, is a legal custodian of
12 Petitioner.

13 Todd Lyons is the Acting Director of Immigration and Customs Enforcement,
14 which is responsible for administering and enforcing immigration laws, including
15 the detention and removal of immigrants. Lyons, in his official capacity, is a legal
16 custodian of Petitioner.

17 Kristi Noem is the Secretary of the Department of Homeland Security (DHS),
18 which oversees ICE. Noem, in her official capacity, is the ultimate legal custodian of
19 Petitioner.

20 Pam Bondi is the Attorney General of the United States. She oversees the
21 immigration court system, which is housed within the Executive Office for
22 Immigration Review (EOIR) and includes all immigration courts and the Board of
23 Immigration Appeals (BIA). She is named in her official capacity.

STATEMENT OF FACTS

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25 Petitioner Rozi was born in Chad in 1970. On information and belief, Rozi
26 came to the U.S. as an asylee in 1996. On February 6, 2018, he was ordered
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1 removed¹ but remained in detention until late 2019 because the government could
2 not remove him. Last February, Utah police arrested Rozi for a minor crime, and he
3 has been detained by the government since then.

4 Respondents have held Rozi in custody in overcrowded² conditions in the
5 Nevada Southern Detention Center since August 25, 2025,³ but Rozi has been in
6 custody since February 2025 and has been cumulatively detained by the U.S.
7 government for nearly three years. Between now and the time Rozi was ordered
8 removed in 2018, circumstances have not materially changed concerning the
9 possibility of his removal. ICE still cannot remove him to Chad, and Rozi has not
10 received any documents identifying another country of removal or any plan for
11 removal.

12 LEGAL FRAMEWORK

13 I. Constitutional protection against indefinite civil detention.

14 Section 1231 of the INA governs the detention of noncitizens during and
15 beyond the “removal period.” The removal period begins once a noncitizen’s removal
16 order becomes administratively final and lasts for 90 days, during which ICE “shall
17 remove the [noncitizen] from the United States” and “shall detain the [noncitizen]”
18 as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the
19 noncitizen within the 90-day removal period, the noncitizen “*may* be detained
20 beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added).

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24 ¹ P.Ex. 1.

25 ² Isabella Aldrete, *Nevada is home to one of the most over-capacity ICE*
26 *detention centers in the country*, Nevada Independent (Aug. 27, 2025), available at
[https://thenevadaindependent.com/article/nevada-is-home-to-one-of-the-most-over-](https://thenevadaindependent.com/article/nevada-is-home-to-one-of-the-most-over-capacity-ice-detention-centers-in-the-country)
27 [capacity-ice-detention-centers-in-the-country](https://thenevadaindependent.com/article/nevada-is-home-to-one-of-the-most-over-capacity-ice-detention-centers-in-the-country).

³ ECF No. 1-1 at 1.

1 The Supreme Court considered the issue of indefinite detention under 8
2 U.S.C. §1231(a)(6) in the case *Zadvydas v. Davis*, 533 U.S. 678 (2001). In that case,
3 the Court acknowledged that allowing a noncitizen to be detained indefinitely after
4 the statutory removal period would raise “serious constitutional concerns” and, as a
5 result, held that 8 U.S.C. §1231(a)(6) contains an implicit time limit. *Id.* at 682. The
6 Court further held that 8 U.S.C. §1231(a)(6) authorizes detention only for “a period
7 reasonably necessary to bring about the [noncitizen]’s removal from the United
8 States” and that six months of detention after the removal order is final is
9 “presumptively reasonable.” *Id.* at 689, 701.

10 Importantly, the *Zadvydas* court did not say the presumption is irrebuttable,
11 and a variety of courts across the country that have considered the issue have found
12 the presumption of reasonableness during the first six months of post-removal order
13 detention can be rebutted. *See Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO),
14 2025 WL 1750346, at *5 (D.N.J. June 24, 2025) (analyzing the issue and collecting
15 cases). “Within the six-month window,” the noncitizen bears the burden of
16 “prov[ing] the unreasonableness of detention.” *Cesar v. Achim*, 542 F. Supp. 2d 897,
17 903 (E.D. Wis. 2008). After six months, there is “good reason to believe that there is
18 no significant likelihood of removal in the reasonably foreseeable future,” and the
19 burden shifts to the government to justify continued detention. *Zadvydas*, 533 U.S.
20 at 701. “Whether detention is ‘reasonably necessary to secure removal is
21 determinative of whether the detention is, or is not, pursuant to statutory
22 authority...The basic federal habeas corpus statute grants the federal courts
23 authority to answer that question.” *Medina v. Noem, et al., Respondents*, No. 25-
24 CV-1768-ABA, 2025 WL 2306274, at *6 (D. Md. Aug. 11, 2025) (citing *Zadvydas*,
25 533 U.S. at 699).

1 II. Relevant DHS Regulations.

2 DHS regulations provide that, before the end of the 90-day removal period,
3 the local ICE field office with jurisdiction over the noncitizen's detention must
4 conduct a custody review to determine whether the noncitizen should remain
5 detained. *See* 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released
6 at the end of the removal period or in the three months that follow, jurisdiction
7 transfers to ICE headquarters (ICE HQ), which must conduct a custody review
8 before or at 180 days. 8 C.F.R. §241.4(c)(2), (k)(2)(ii).

9 To comply with *Zadvydas*, DHS issued additional regulations in 2001 that
10 established "special review procedures" to determine whether detained noncitizens
11 with final removal orders are likely to be removed in the reasonably foreseeable
12 future. *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66
13 Fed. Reg. 56, 967 (Nov. 14, 2001). Subsection (i)(7) was added to 8 C.F.R. §241.4,
14 which added a supplemental review procedure that ICE HQ must initiate when "the
15 [noncitizen] submits, or the record contains, information providing a substantial
16 reason to believe that removal of a detained [noncitizen] is not significantly likely in
17 the reasonably foreseeable future." 8 C.F.R. §241.4(i)(7). Under this procedure, ICE
18 HQ evaluates the foreseeability of removal by analyzing factors such as the history
19 of ICE's removal efforts to third countries. *See* 8 C.F.R. §241.13(f). If ICE HQ
20 determines that removal is not reasonably foreseeable but nonetheless seeks to
21 continue detention based on "special circumstances," it must justify the detention
22 based on narrow grounds such as national security or public health concerns or by
23 demonstrating by clear and convincing evidence before an immigration judge (IJ)
24 that the noncitizen is "specially dangerous." 8 C.F.R. §241.14(b)-(d), (f).

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1 **III. Third country removals.**

2 **A. Statutory guidance on third country removals**

3 A noncitizen who cannot be removed to their country of origin can be removed
4 to another country by ICE. This is known as a “third country” because it is a
5 country other than the one designated on the noncitizen’s removal order. 8 C.F.R. §
6 1208.16(f). Specific criteria for identifying a third country for removal are prescribed
7 by statute. For example, the law provides that a noncitizen with a removal order
8 may be removed to a non-designated country of which the noncitizen is a “subject,
9 national or citizen.” 8 U.S.C. §1231(b)(2)(D). ICE may also remove a noncitizen with
10 a removal order to the country from which they were admitted to the U.S.; the
11 country from which the noncitizen departed for the U.S. or a foreign territory
12 contiguous to the U.S.; a country in which the noncitizen resided before entering the
13 country from which they entered the U.S.; the noncitizen’s country of birth; the
14 country that had sovereignty over the place of birth at the time of birth; the country
15 in which the birthplace is located at the time of the removal order; and, “if
16 impracticable, inadvisable, or impossible to remove the [noncitizen] to each country
17 described [above],” ICE may remove a noncitizen to “another country whose
18 government will accept the [noncitizen] into that country.” 8 U.S.C. §1231(b)(2)(E).

19 Notwithstanding the criteria for removal to a third country, ICE may not
20 remove a noncitizen to a country where the noncitizen’s life or freedom would be
21 threatened based on the five protected grounds. 8 U.S.C. §1231(b)(3)(A). The
22 Supreme Court has emphasized the importance of existing avenues of relief from
23 removal (such as applications for asylum, withholding of removal, and protection
24 under the convention against torture) for providing protection against removal to a
25 third country where a noncitizen would be in danger. *See Jama v. Immigr. &*
26 *Customs Enf’t*, 543 U.S. 335, 348 (2005) (“If aliens would face persecution or other
27 mistreatment in the country designated under § 1231(b)(2), they have a number of

1 available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A);
2 relief under an international agreement prohibiting torture, see 8 CFR §§
3 208.16(c)(4), 208.17(a) (2004); and temporary protected status, 8 U.S.C. §
4 1254a(a)(1)”; see also *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1368 (2025) (recently
5 holding that non-citizens “must receive notice” that “they are subject to removal” to
6 a third country and that such notice must be provided “within a reasonable time
7 and in such a manner as will allow the[] [non-citizen] to actually seek . . . relief.”)
8 (quoting *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025)).

9 The government itself has previously acknowledged this limitation on
10 removal to a third country. In oral argument before the Supreme Court in the case
11 *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021) the following exchange took place
12 between the then-Assistant to the Solicitor General, Vivek Suri, and Justice Kagan:

13 JUSTICE KAGAN: ...suppose you had a third
14 country that, for whatever reason, was willing to accept [a
15 noncitizen]. If...that [noncitizen] was currently in
16 withholding proceed--proceedings, you couldn't put him on
a plane to that third country, could you?

17 MR. SURI: We could after we provide the
18 [noncitizen] notice that we were going to do that.

19 JUSTICE KAGAN: Right.

20 MR. SURI: But, without notice –

21 JUSTICE KAGAN: So that's what it would depend
22 on, right? That – that you would have to provide him
23 notice, and if he had a fear of persecution or torture in
24 that country, he would be given an opportunity to contest
his removal to that country. Isn't that right?

25 MR. SURI: Yes, that's right.

26 JUSTICE KAGAN: So, in this situation, as to these
27 [noncitizens] who are currently in withholding

1 proceedings, you can't put them on a plane to anywhere
2 right now, isn't that right?

3 MR. SURI: Certainly, I agree with that, yes.

4 JUSTICE KAGAN: Okay. And that's not as a
5 practical matter. That really is, as -- as you put it, in the
6 eyes of the law. In the eyes of the law, you cannot put one
7 of these [noncitizens] on a plane to any place, either the --
8 either the country that's referenced in the removal order
9 or any other country, isn't that right?

10 MR. SURI: Yes, that's right.

11 *See* Transcript of Oral Argument at 20–21, *Johnson v. Guzman Chavez*, 594
12 U.S. 523 (2021).

13 **B. Trump Administration policies on third country removal**

14 On March 30, 2025, Respondent Kristi Noem, the Secretary of the
15 Department of Homeland Security, issued guidance to ICE and other DHS agencies
16 regarding third country removals. This memo states that, prior to a noncitizen's
17 removal to a third country, "DHS must determine whether that country has
18 provided diplomatic assurances that aliens removed from the United States will not
19 be persecuted or tortured."⁴ The memo continues that, where a country has
20 provided such assurances and the U.S. government believes them to be credible, a
21 noncitizen may be removed to that country "without the need for further
22 procedures." In other words, an individual may be removed without providing notice
23 or an opportunity to contest removal to that third country.

24 The March 30th memo also states that DHS will remove noncitizens even to
25 third countries that have not provided diplomatic assurances that noncitizens
26 deported from the U.S. will not be persecuted or tortured.⁵ In such cases, DHS will

27 ⁴ P.Ex. 2 at 3.

⁵ P.Ex. 2 at 4

1 inform the noncitizen of removal to the intended country but will not affirmatively
2 ask the noncitizen if they fear being removed to that country.⁶ DHS will refer any
3 noncitizen that affirmatively states a fear of removal to a third country to USCIS
4 for a screening for eligibility for withholding of removal and/or CAT protection as to
5 the intended third country.⁷ USCIS will then make a determination about whether
6 the noncitizen has established that they will “more likely than not be persecuted on
7 a statutorily protected ground or tortured in the country of removal.”⁸

8 If USCIS determines that the noncitizen did not meet that burden, they will
9 be removed.⁹ If the noncitizen does make a showing to the satisfaction of USCIS,
10 USCIS will notify ICE and the ICE Office of the Principal Legal Advisor (OPLA)
11 may reopen immigration court proceedings for the noncitizen to seek withholding or
12 CAT protection from removal to the third country.¹⁰ “Alternatively, ICE may choose
13 to designate another country for removal.”¹¹ The memo provides no limitation on
14 how many times ICE could designate a new third country for removal upon a
15 noncitizen’s showing of a well-founded fear of removal to a particular country.

16 On July 9, 2025, Respondent Todd Lyons sent additional guidance to ICE
17 employees regarding third country removals (“July 9 Directive”).¹² The directive
18 was issued in light of the Supreme Court’s decision to stay the injunction in the case
19 *D.V.D. v. Department of Homeland Security*, No. 25-10676 (D. Mass.). It reiterated
20 the procedures from the March 30 memo and provided additional details regarding
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22 ⁶ P.Ex. 2 at 4.

23 ⁷ P.Ex. 2 at 4.

24 ⁸ P.Ex. 2 at 4.

25 ⁹ P.Ex. 2 at 4.

26 ¹⁰ P.Ex. 2 at 4.

27 ¹¹ P.Ex. 2 at 4.

¹² P.Ex. 3.

1 how to deal with third country removals to countries that have not provided credible
2 assurances that U.S. deportees will not be persecuted or tortured. It added that, in
3 such cases, an ICE officer will serve the noncitizen with a Notice of Removal
4 including the intended country and that the notice must be read in a language the
5 noncitizen understands.¹³ ICE “will generally wait at least 24 hours following
6 service of the Notice of Removal before effectuating removal” but that in “exigent
7 circumstances” ICE may remove a noncitizen to a possible-torture third country in
8 as little as six hours after service of the Notice of Removal “as long as the
9 [noncitizen] is provided reasonable means and opportunity to speak with an
10 attorney prior to removal.”¹⁴ Generally, if a noncitizen does not affirmatively state a
11 fear of persecution or torture within 24 hours of service of the Notice of Removal,
12 ICE may proceed with removal to the identified third country.¹⁵

13 P.Ex. 3 at 2.

14 P.Ex. 3 at 2.

15 P.Ex. 3 at 3.

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GROUNDS FOR RELIEF

I. The continued indefinite detention of Petitioner violates his Fifth Amendment right to due process because his removal is not reasonably foreseeable.

Petitioner incorporates the above paragraphs by reference as if fully set forth herein.

The INA requires mandatory detention of individuals with final removal orders only during the 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen who is not removed within that period “shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen “*may* be detained beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added). However, in *Zadvydas*, the Supreme Court concluded that due process imposes an “implicit limitation” upon 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 689. Specifically, the Court held that 8 U.S.C. §1231(a)(6) authorizes detention only for “a period reasonably necessary to bring about the [noncitizen]’s removal from the United States” and that six months of detention after the removal order is final is “presumptively reasonable.” *Id.* at 701. The Court further determined that “once the alien 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 rebut that showing.” *Id.*

Rozi’s detention is governed by 8 U.S.C. § 1231(a)(6) because he has been detained for more than 90 days since he was ordered removed. Here, the 90-day removal period began on February 6, 2018, when the IJ ordered removal because the appeal was dismissed.¹⁶ *See* 8 U.S.C. § 1231(a)(1)(B)(i); 8 C.F.R. § 1241.1(b). Therefore, the *Zadvydas* framework applies.

¹⁶ P.Ex. 1.

1 Rozi’s continued detention is unreasonable because his removal is not
2 reasonably foreseeable. As of the filing date of this Amended Petition, nearly 8
3 years have passed since the IJ issued an order of removal in immigration
4 proceedings. Upon information and belief, Rozi was detained for nearly two years in
5 2018-2019, and he has been re-detained since February 2025. Throughout his
6 prolonged detention, no specific plans have been made to deport Rozi, and no third
7 country designation has been made.

8 The Due Process Clause of the Fifth Amendment forbids the government
9 from depriving any “person” of liberty “without due process of law.” U.S. Const.
10 Amend. V. Petitioner has a liberty interest in remaining free from physical
11 confinement where removal is not reasonably foreseeable. Respondents have
12 violated the Due Process Clause of the Fifth Amendment because Petitioner’s
13 removal is not reasonably foreseeable. As provided above, *Zadvydas* requires that
14 Petitioner be immediately released. *See* 533 U.S. at 700-01 (describing release as an
15 appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release “subject to . . . terms
16 of supervision”).

17 **II. Petitioner’s continued detention violates the Immigration and**
18 **Nationality Act, 8 U.S.C. § 1231(a)(6).**

19 Petitioner incorporates the above paragraphs by reference as if fully set forth
20 herein.

21 As provided in Ground One, above, Petitioner’s detention is governed by 8
22 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas, supra*.
23 Petitioner’s continued detention violates 8 U.S.C. § 1231(a)(6) because it is both
24 unreasonable and because removal is not reasonably foreseeable. Rather, his
25 continued detention under 8 U.S.C. § 1231(a)(6) is driven by sweeping and arbitrary
26 DHS policies. Moreover, and as discussed in Ground One, Petitioner’s removal is
27 not reasonably foreseeable. This Court should order that Petitioner be released.

1 **III. ICE’s policy to remove noncitizens to a third country with no notice**
2 **or opportunity to seek fear-based protection violates his Fifth**
3 **Amendment right to due process and constitutes arbitrary and**
4 **capricious agency action in violation of the Administrative**
5 **Procedure Act, 5 U.S.C. § 706.**

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Petitioner incorporates the above paragraphs by reference as if fully set forth herein.

The APA entitles “a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action . . . to judicial review.” 5 U.S.C. § 702. Further, the APA compels a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary [or] capricious, . . . otherwise not in accordance with law,” *id.* § 706(2)(A), or “short of statutory right,” *id.* § 706(2)(C). The APA also compels a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

As explained above, Petitioner has a due process right to meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports him to a third country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Petitioner also has a due process right to implementation of a process or procedure to afford these protections. *See, e.g., McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 491 (1991). Respondents, however, have adopted a policy—set forth in the March 30 memo and July 9 directive—that is arbitrary and capricious and deprives Petitioner of meaningful notice and an opportunity to present a fear-based claim to an immigration judge prior to his deportation to a third country. Moreover, Respondents’ policy also violates the INA and implementing regulations which mandate that Respondents refrain from removing Petitioner, and similarly situated individuals, to a third country where they will likely be persecuted or tortured, thus

1 requiring Respondents to provide meaningful notice of deportation to a third
2 country and the opportunity to present a fear-based claim to an immigration judge
3 before deporting an individual to a third country. In this case, the March 30 memo
4 and July 9 directive demonstrate Respondents do not intend to observe those
5 protections.¹⁷

6 The APA empowers federal courts to “compel agency action unlawfully
7 withheld or unreasonably delayed.” 5 U.S.C. § 706(1). The Court should hold that
8 Respondents’ actions and policy are unlawful and compel that—before any attempt
9 is made to deport him to a third country—Petitioner be provided with meaningful
10 notice and opportunity to present a fear-based claim to an immigration judge.

11 **IV. ICE’s policy to remove noncitizens to a third country with no notice**
12 **or opportunity to seek fear-based protection violates his Fifth**
13 **Amendment right to due process and constitutes arbitrary and**
14 **capricious agency action in violation of the Administrative**
15 **Procedure Act, 5 U.S.C. § 706.**

16 Petitioner incorporates the above paragraphs by reference as if fully set forth
17 herein.

18 The APA entitles “a person suffering legal wrong because of agency action, or
19 adversely affected or aggrieved by agency action . . . to judicial review.” 5 U.S.C. §
20 702. Further, the APA compels a reviewing court to “hold unlawful and set aside
21 agency action, findings, and conclusions found to be . . . arbitrary [or] capricious, . . .
22 otherwise not in accordance with law,” 5 U.S.C. § 706(2)(A), or “short of statutory
23 right,” 5 U.S.C. § 706(2)(C). The APA also compels a reviewing court to “hold
24 unlawful and set aside agency action, findings, and conclusions found to be . . .
25 without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

26 ¹⁷ See also Gerald Imray, 3 deported by U.S. held in African prison despite
27 completing sentences, lawyers say, PBS NEWS (Sept. 2, 2025),
<https://www.pbs.org/newshour/amp/nation/3-deported-by-u-s-held-in-african-prison-despite-completing-sentences-lawyers-say>.

1 As explained above, Petitioner has a due process right to meaningful notice
2 and opportunity to present a fear-based claim to an immigration judge before DHS
3 deports him to a third country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.
4 1999); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Petitioner
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6 these protections. *See, e.g., McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 491
7 (1991).

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9 memo and July 9 directive—that is arbitrary and capricious and deprives Petitioner
10 of meaningful notice and an opportunity to present a fear-based claim to an
11 immigration judge prior to his deportation to a third country. Moreover,
12 Respondents’ policy also violates the INA and implementing regulations which
13 mandate that Respondents refrain from removing Petitioner, and similarly situated
14 individuals, to a third country where they will likely be persecuted or tortured, thus
15 requiring Respondents to provide meaningful notice of deportation to a third
16 country and the opportunity to present a fear-based claim to an immigration judge
17 before deporting an individual to a third country. In this case, the March 30 memo
18 and July 9 directive demonstrate Respondents do not intend to observe those
19 protections.¹⁸

20 The APA empowers federal courts to “compel agency action unlawfully
21 withheld or unreasonably delayed.” 5 U.S.C. § 706(1). The Court should hold that
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24 ¹⁸ *See also* Lunga Masuku, Eswatini government faces court challenge for
25 accepting US deportees, THE GUARDIAN (Aug. 22, 2025),
26 <https://www.reuters.com/world/africa/eswatini-government-faces-court-challenge-accepting-us-deportees-2025-08-22/>; Gerald Imray, 3 deported by U.S. held in
27 African prison despite completing sentences, lawyers say, PBS NEWS (Sept. 2, 2025),
<https://www.pbs.org/newshour/amp/nation/3-deported-by-u-s-held-in-african-prison-despite-completing-sentences-lawyers-say>.

1 Respondents' actions and policy are unlawful and compel that—before any attempt
2 is made to deport Petitioner to a third country—Petitioner be provided with
3 meaningful notice and opportunity to present a fear-based claim to an immigration
4 judge.

5 **V. Petitioner's detention in immigration custody pursuant to recent**
6 **ICE policy regarding third country removal violates the Due Process**
7 **Clause of the Fifth Amendment.**

8 To the extent that Petitioner's continued detention is meant to facilitate his
9 removal to a third country, his detention is unlawful because, as argued in Ground
10 Four (incorporated here by reference), ICE's procedure for third country removal is
11 arbitrary and capricious and does not comply with due process. Any such future
12 removal would be accomplished in violation of his due process rights, rendering his
13 detention on that basis unlawful. Accordingly, this Court should order Petitioner's
14 immediate release.

15 **PRAYER FOR RELIEF**

16 Accordingly, Petitioner Mahamat Rozi respectfully requests that this Court:

- 17 1. Declare that Petitioner's continued detention violates the Immigration
18 and Nationality Act, 8 U.S.C. §1231(a)(6); the Administrative Procedure Act, 5
19 U.S.C. §706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the
20 U.S. Constitution;
- 21 2. Order Petitioner's immediate release;
- 22 3. Prohibit Respondent's from re-detaining Petitioner in the future
23 absent proof of changed circumstancing making his removal reasonably foreseeable;
- 24 4. Prohibit Respondents from removing Petitioner to a third country
25 without providing Petitioner and Petitioner's counsel with adequate notice of intent
26 to seek removal to a third country and due process in the form of an opportunity to
27 seek to reopen Petitioner's immigration court proceedings to seek fear-based relief
from removal; and

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States of America and the State of Nevada that the facts alleged in this petition are true and correct to the best of counsel's knowledge, information, and belief.

Dated January 13, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Ron Y. Sung

Ron Y. Sung
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on January 13, 2026. I personally served a true and correct copy of the foregoing index and exhibits in support of the first amended petition by CM/ECF to the following individuals:

Richard (Tony) Anthony Lopez U.S. Attorney's Office 501 Las Vegas Blvd South Suite 1100 Las Vegas, NV 89101 Email: tony.lopez@usdoj.gov	Virginia Tomova DOJ-USAO 501 Las Vegas Blvd., S. Suite 1100 Las Vegas, NV 89101 Email: virginia.tomova@usdoj.gov
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I further certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

Mahamat Rozi,  Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048	John Mattos, Warden Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048
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/s/ Victoria Lenzi

An Employee of the
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