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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Muhammad Zeeshan,

15 Petitioner,

16 v.

17 Pamela Bondi, *et al.*,

18 Respondents.

19 Case No. 2:25-cv-02613-CDS-DJA

20 **First Amended § 2241 Petition**

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INTRODUCTION

Muhammad Zeeshan, a citizen of Pakistan, was ordered removed to Pakistan by an immigration judge. The Second Circuit Court of Appeals denied his petition for review on October 28, 2024. *Zeeshan v. Garland*, No. 23-6834, 2024 WL 4588495 (2d Cir. Oct. 28, 2024). In the 15 months since, the United States has been unable to remove Mr. Zeeshan. Nonetheless, the government has held Mr. Zeeshan in immigration custody for nearly six months. Because the government has given no indication that Mr. Zeeshan’s removal is imminent, 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. *See e.g. 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.

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

2 **PARTIES**

3 Muhammad Zeeshan is a native and citizen of Pakistan. He is currently
4 detained at the Nevada Southern Detention 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 Mr. Zeeshan.

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 Mr. Zeeshan is detained. Bernacke, in his official capacity, is a legal custodian of
12 Mr. Zeeshan.

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 Mr. Zeeshan.

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 Mr. Zeeshan.

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.

24 **STATEMENT OF FACTS**

25 Petitioner Muhammad Zeeshan was born in Pakistan. He fled the country,
26 through Brazil, after a relationship with the daughter of a police officer came to
27 light. On information and belief, because of that relationship, a religious authority

1 in Pakistan issued a formal fatwa, labeling Mr. Zeeshan as: (1) a violator of Islamic
2 Sharia Law; (2) a person who dishonored his family and community; and (3) subject
3 to death by followers of the issuing cleric. Ex. 1. He was ordered removed in August
4 2020. The Board of Immigration Appeals denied relief on July 10, 2023, and the
5 Second Circuit Court of Appeals denied his petition for review on October 28, 2024.

6 On July 31, 2025, Mr. Zeeshan was taken into custody at the Canadian
7 border in Sweetgrass, Montana. Ex. 2 at 7. According to documents he received from
8 ICE, it appears he complied with requests to seek travel documents. Ex. 2 at 1–5.
9 But the government has given no indication that removal is imminent. Mr. Zeeshan
10 has not received any documents identifying a country of removal, or any plan for
11 removal. Instead, Mr. Zeeshan received a Decision to Continue Detention, stating
12 incorrectly he was being detained because of a criminal record. Ex. 3; see Ex. 2 at 7
13 (stating Mr. Zeeshan “has no criminal history”).

14 LEGAL FRAMEWORK

15 I. Third Country Removals

16 A. Statutory guidance on third country removals

17 A noncitizen who cannot be removed to their country of origin can be removed
18 to another country by ICE. This is known as a “third country” because it is a
19 country other than the one designated on the noncitizen’s removal order. 8 C.F.R. §
20 1208.16(f). Specific criteria for identifying a third country for removal are prescribed
21 by statute. For example, the law provides that a noncitizen with a removal order
22 may be removed to a non-designated country of which the noncitizen is a “subject,
23 national or citizen.” 8 U.S.C. §1231(b)(2)(D). ICE may also remove a noncitizen
24 with a removal order to the country from which they were admitted to the U.S.; the
25 country from which the noncitizen departed for the U.S. or a foreign territory
26 contiguous to the U.S.; a country in which the noncitizen resided before entering the
27 country from which they entered the U.S.; the noncitizen’s country of birth; the

1 country that had sovereignty over the place of birth at the time of birth; the country
2 in which the birthplace is located at the time of the removal order; and, “if
3 impracticable, inadvisable, or impossible to remove the [noncitizen] to each country
4 described [above],” ICE may remove a noncitizen to “another country whose
5 government will accept the [noncitizen] into that country.” 8 U.S.C. §1231(b)(2)(E).

6 Notwithstanding the criteria for removal to a third country, ICE may not
7 remove a noncitizen to a country where the noncitizen’s life or freedom would be
8 threatened on the basis of the five protected grounds. 8 U.S.C. §1231(b)(3)(A). The
9 Supreme Court has emphasized the importance of existing avenues of relief from
10 removal (such as applications for asylum, withholding of removal, and protection
11 under the convention against torture) for providing protection against removal to a
12 third country where a noncitizen would be in danger. *See Jama v. Immigr. &*
13 *Customs Enf’t*, 543 U.S. 335, 348 (2005) (“If aliens would face persecution or other
14 mistreatment in the country designated under § 1231(b)(2), they have a number of
15 available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A);
16 relief under an international agreement prohibiting torture, see 8 CFR §§
17 208.16(c)(4), 208.17(a) (2004); and temporary protected status, 8 U.S.C. §
18 1254a(a)(1))”; *see also A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1368 (2025) (recently
19 holding that non-citizens “must receive notice” that “they are subject to removal” to
20 a third country and that such notice must be provided “within a reasonable time
21 and in such a manner as will allow the[] [non-citizen] to actually seek . . . relief.”)
22 (quoting *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025)).

23 The government itself has previously acknowledged this limitation on
24 removal to a third country. In oral argument before the Supreme Court in the case
25 *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021) the following exchange took place
26 between the then-Assistant to the Solicitor General, Vivek Suri, and Justice Kagan:
27

1 JUSTICE KAGAN: ... suppose you had a third
2 country that, for whatever reason, was willing to accept [a
3 noncitizen]. If...that [noncitizen] was currently in
4 withholding proceed—proceedings, you couldn't put him
5 on a plane to that third country, could you?

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

8 JUSTICE KAGAN: Right.

9 MR. SURI: But, without notice—

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

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

16 JUSTICE KAGAN: So, in this situation, as to these
17 [noncitizens] who are currently in withholding
18 proceedings, you can't put them on a plane to anywhere
19 right now, isn't that right?

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

21 JUSTICE KAGAN: Okay. And that's not as a
22 practical matter. That really is, as—as you put it, in the
23 eyes of the law. In the eyes of the law, you cannot put one
24 of these [noncitizens] on a plane to any place, either the—
25 either the country that's referenced in the removal order
26 or any other country, isn't that right?

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

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

B. Trump Administration policies on third country removal.

On March 30, 2025, Respondent Kristi Noem, the Secretary of the
Department of Homeland Security, issued guidance to ICE and other DHS agencies

1 regarding third-country removals. This memo states that, prior to a noncitizen's
2 removal to a third country, "DHS must determine whether that country has
3 provided diplomatic assurances that aliens removed from the United States will not
4 be persecuted or tortured." Ex. 4 at 1. The memo continues that, where a country
5 has provided such assurances and the U.S. government believes them to be credible,
6 a noncitizen may be removed to that country "without the need for further
7 procedures." In other words, an individual may be removed without providing notice
8 or an opportunity to contest removal to that third country.

9 The March 30th memo also states that DHS will remove noncitizens even to
10 third countries that have not provided diplomatic assurances that noncitizens
11 deported from the U.S. will not be persecuted or tortured. Ex. 4 at 1–2. In such
12 cases, DHS will inform the noncitizen of removal to the intended country but will
13 not affirmatively ask the noncitizen if they fear being removed to that country. Ex.
14 4 at 2. DHS will refer any noncitizen that affirmatively states a fear of removal to a
15 third country to USCIS for a screening for eligibility for withholding of removal
16 and/or CAT protection as to the intended third country. *Id.* USCIS will then make a
17 determination about whether the noncitizen has established that they will "more
18 likely than not be persecuted on a statutorily protected ground or tortured in the
19 country of removal." *Id.*

20 If USCIS determines that the noncitizen did not meet that burden, they will
21 be removed. *Id.* If the noncitizen does make a showing to the satisfaction of USCIS,
22 USCIS will notify ICE and the ICE Office of the Principal Legal Advisor (OPLA)
23 may reopen immigration court proceedings for the noncitizen to seek withholding or
24 CAT protection from removal to the third country. *Id.* "Alternatively, ICE may
25 choose to designate another country for removal." *Id.* The memo provides no
26 limitation on how many times ICE could designate a new third country for removal
27

1 upon a noncitizen’s showing of a well-founded fear of removal to a particular
2 country.

3 On July 9, 2025, Respondent Todd Lyons sent additional guidance to ICE
4 employees regarding third country removals (“July 9 Directive”). Ex. 5. The
5 directive was issued in light of the Supreme Court’s decision to stay the injunction
6 in the case *D.V.D. v. Department of Homeland Security*, No. 25-10676 (D. Mass.). It
7 reiterated the procedures from the March 30 memo and provided additional details
8 regarding how to deal with third country removals to countries that have not
9 provided credible assurances that U.S. deportees will not be persecuted or tortured.
10 It added that, in such cases, an ICE officer will serve the noncitizen with a Notice of
11 Removal including the intended country and that the notice must be read in a
12 language the noncitizen understands. Ex. 5. ICE “will generally wait at least 24
13 hours following service of the Notice of Removal before effectuating removal” but
14 that in “exigent circumstances” ICE may remove a noncitizen to a possible-torture
15 third country in as little as six hours after service of the Notice of Removal “as long
16 as the [noncitizen] is provided reasonable means and opportunity to speak with an
17 attorney prior to removal.” *Id.* Generally, if a noncitizen does not affirmatively state
18 a fear of persecution or torture within 24 hours of service of the Notice of Removal,
19 ICE may proceed with removal to the identified third country. *Id.*

20 II. Detention of Noncitizens after a Final Order of Removal

21 A. Statutory framework

22 Section 1231 of the INA governs the detention of noncitizens during and
23 beyond the “removal period.” The removal period begins once a noncitizen’s removal
24 order becomes administratively final and lasts for 90 days, during which ICE “shall
25 remove the [noncitizen] from the United States” and “shall detain the [noncitizen]”
26 as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the
27

1 noncitizen within the 90-day removal period, the noncitizen “*may* be detained
2 beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added).

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

12 Importantly, the *Zadvydas* court did not say the presumption is irrebuttable,
13 and a variety of courts across the country that have considered the issue have found
14 the presumption of reasonableness during the first six months of post-removal order
15 detention can be rebutted. *See Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO),
16 2025 WL 1750346, at *5 (D.N.J. June 24, 2025) (analyzing the issue and collecting
17 cases). “Within the six-month window,” the noncitizen bears the burden of
18 “prov[ing] the unreasonableness of detention.” *Cesar v. Achim*, 542 F. Supp. 2d 897,
19 903 (E.D. Wis. 2008). After six months, there is “good reason to believe that there is
20 no significant likelihood of removal in the reasonably foreseeable future,” and the
21 burden shifts to the government to justify continued detention. *Zadvydas*, 533 U.S.
22 at 701. “Whether detention is ‘reasonably necessary to secure removal is
23 determinative of whether the detention is, or is not, pursuant to statutory
24 authority...The basic federal habeas corpus statute grants the federal courts
25 authority to answer that question.’” *Medina v. Noem, et al., Respondents*, No. 25-
26 CV-1768-ABA, 2025 WL 2306274, at *6 (D. Md. Aug. 11, 2025) (citing *Zadvydas*,
27 533 U.S. at 699).

B. DHS Regulations

1
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 *Zadvyas*, 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).

C. ICE Policy

25
26 On February 18, 2025, in an apparent departure from longstanding legal
27 requirements and ICE's own policies, ICE issued a directive to agents encouraging

1 them to seek to re-detain noncitizens with final removal orders who had been
2 previously released from custody for the purpose of removal to previously
3 recalcitrant countries of origin, or to third countries. Ex. 6. The directive did not
4 provide justification as to why detention of noncitizens under orders of supervision
5 would be necessary to effectuate proper removal to countries of origin or otherwise.

6 This recent ICE policy goes against DHS regulations on re-detention. Beyond
7 the protections in *Zadvydas*, 8 C.F.R. §§ 241.4, 241.13(i) establishes additional
8 protective procedures for re-detention. These procedures allow for the noncitizen to
9 “be returned to custody” due to violations of the conditions of their release. 8 C.F.R.
10 § 241.13(i)(l); *see also* § 241.4. Absent condition violations, revocation of release is
11 only permitted if based on “changed circumstances” it is determined that “there is a
12 significant likelihood that the alien may be removed in the reasonably foreseeable
13 future.” 8 C.F.R. § 241.13(i)(2).

14 Regardless of the reason for re-detention, the re-detained person is entitled to
15 “an initial informal interview promptly” after being taken back into custody. 8
16 C.F.R. § 241.13(i)(3). The re-detained person “will be notified of the reasons for
17 revocation” and will be afforded the “opportunity to respond to the reasons for
18 revocation.” *Id.* The re-detained person should also be permitted to “submit any
19 evidence or information” that can demonstrate that “there is no significant
20 likelihood [they] be removed in the reasonably foreseeable future.” *Id.*

21 GROUND FOR RELIEF

22 **I. Ground One: The continued indefinite detention of Mr.**
23 **Zeeshan violates his Fifth Amendment right to due process**
24 **because his removal is not reasonably foreseeable.**

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

27 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

1 who is not removed within that period “shall be subject to supervision under
2 regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3). If ICE does
3 not remove the noncitizen within the 90-day removal period, the noncitizen “*may* be
4 detained beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added).
5 However, in *Zadvydas*, the Supreme Court concluded that due process imposes an
6 “implicit limitation” upon 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 689.
7 Specifically, the Court held that 8 U.S.C. §1231(a)(6) authorizes detention only for
8 “a period reasonably necessary to bring about the [noncitizen]’s removal from the
9 United States” and that six months of detention after the removal order is final is
10 “presumptively reasonable.” *Id.* at 701. The Court further determined that “once the
11 alien provides good reason to believe that there is no significant likelihood of
12 removal in the reasonably foreseeable future, the Government must respond with
13 evidence sufficient to rebut that showing.” *Id.*

14 Mr. Zeeshan’s detention is governed by 8 U.S.C. § 1231(a)(6) because he has
15 been detained for more than 90 days since he was ordered removed. *See* 8 U.S.C. §
16 1231(a)(1)(B)(i); 8 C.F.R. § 1241.1(b). Therefore, the *Zadvydas* framework applies.

17 Petitioner’s continued detention is unreasonable because his removal is not
18 reasonably foreseeable. As of the filing date of this Amended Petition, almost 15
19 months have passed since the Second Circuit denied his petition for review. And
20 February 1 will mark six months Mr. Zeeshan has spent detained by ICE. During
21 that time, on information and belief, no specific plans have been made to deport Mr.
22 Zeeshan, and no third country designation has been made. This despite Mr.
23 Zeeshan cooperating with ICE efforts to obtain travel documents. *See* Ex. 2 at 1–5.

24 The Due Process Clause of the Fifth Amendment forbids the government
25 from depriving any “person” of liberty “without due process of law.” U.S. Const.
26 Amend. V. Petitioner has a liberty interest in remaining free from physical
27 confinement where removal is not reasonably foreseeable. Respondents have

1 violated the Due Process Clause of the Fifth Amendment because Petitioner's
2 removal is not reasonably foreseeable. As provided above, *Zadvydas* requires that
3 Petitioner be immediately released. *See* 533 U.S. at 700-01 (describing release as an
4 appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release "subject to . . . terms
5 of supervision").

6 **II. Ground Two: Mr. Zeeshan's continued detention violates the**
7 **Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6).**

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

10 As provided in Ground One, above, Mr. Zeeshan's detention is governed by 8
11 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas, supra*. Mr.
12 Zeeshan's continued detention violates 8 U.S.C. § 1231(a)(6) because it is both
13 unreasonable and because removal is not reasonably foreseeable. Rather, his
14 continued detention under 8 U.S.C. § 1231(a)(6) is driven by sweeping and arbitrary
15 DHS policies. Moreover, and as discussed in Ground One, Mr. Zeeshan's removal is
16 not reasonably foreseeable. This Court should order that Mr. Zeeshan be released.

17 **III. Ground Three: ICE's policy to remove noncitizens to a third**
18 **country with no notice or opportunity to seek fear-based**
19 **protection violates his Fifth Amendment right to due process**
20 **and constitutes arbitrary and capricious agency action in**
21 **violation of the Administrative Procedure Act, 5 U.S.C. § 706.**

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

24 The APA entitles "a person suffering legal wrong because of agency action, or
25 adversely affected or aggrieved by agency action . . . to judicial review." 5 U.S.C. §
26 702. Further, the APA compels a reviewing court to "hold unlawful and set aside
27 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

1 aside agency action, findings, and conclusions found to be . . . without observance of
2 procedure required by law.” 5 U.S.C. § 706(2)(D).

3 As explained above, Mr. Zeeshan has a due process right to meaningful notice
4 and opportunity to present a fear-based claim to an immigration judge before DHS
5 deports him to a third country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.
6 1999); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Mr. Zeeshan
7 also has a due process right to implementation of a process or procedure to afford
8 these protections. *See, e.g., McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 491
9 (1991). Respondents, however, have adopted a policy—set forth in the March 30
10 memo and July 9 directive—that is arbitrary and capricious and deprives Mr.
11 Zeeshan of meaningful notice and an opportunity to present a fear-based claim to
12 an immigration judge prior to his deportation to a third country. Moreover,
13 Respondents’ policy also violates the INA and implementing regulations which
14 mandate that Respondents refrain from removing Mr. Zeeshan, and similarly
15 situated individuals, to a third country where they will likely be persecuted or
16 tortured, thus requiring Respondents to provide meaningful notice of deportation to
17 a third country and the opportunity to present a fear-based claim to an immigration
18 judge before deporting an individual to a third country. In this case, the March 30
19 memo and July 9 directive demonstrate Respondents do not intend to observe those
20 protections.¹

21 The APA empowers federal courts to “compel agency action unlawfully
22 withheld or unreasonably delayed.” 5 U.S.C. § 706(1). The Court should hold that
23 Respondents’ actions and policy are unlawful and compel that—before any attempt
24

25
26 ¹ *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 is made to deport him to a third country—Petitioner be provided with meaningful
2 notice and opportunity to present a fear-based claim to an immigration judge.

3 **IV. Ground Four: Petitioner’s detention in immigration custody**
4 **pursuant to recent ICE policy regarding third country removal**
5 **violates the Due Process Clause of the Fifth Amendment.**

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

13 **PRAYER FOR RELIEF**

14 Accordingly, David Mr. Zeeshan respectfully requests that this Court:

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

27 ///

///

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 December 27, 2026.

Respectfully submitted,


Rene L. Valladares
Federal Public Defender

/s/ Ellesse Henderson

Ellesse Henderson
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on January 27, 2026. I 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:

Muhammad Zeeshan A 
Nevada Southern Detention Center
2190 E. Mesquite Avenue
Pahrump, NV 89048

John Mattos
Warden
Nevada Southern Detention Center
2190 E. Mesquite Ave.,
Pahrump, NV 89060

I hereby certify that the foregoing has been filed on January 27, 2026. I personally served a true and correct copy of the foregoing **FIRST AMENDED § 2241 PETITION** by CM/ECF to the following individuals:

Virginia Tomova
DOJ-USAO
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