

1 TODD BLANCHE  
 Deputy Attorney General of the United States  
 2 SIGAL CHATTAH  
 First Assistant United States Attorney  
 3 District of Nevada  
 Nevada Bar Number 8264  
 4 NATHAN M. CLAUS  
 Assistant United States Attorney  
 5 Nevada Bar No. 15889  
 501 Las Vegas Blvd. So., Suite 1100  
 6 Las Vegas, Nevada 89101  
 Phone: (702) 388-6336  
 7 Fax: (702) 388-6787  
 Nathan.claus@usdoj.gov  
 8 *Attorneys for the Federal Respondents*

9  
 10 **UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA**

11 Wahid Masud Siddiqi,  
 12                                    Petitioner,  
 13                                    v.  
 14 PAMELA BONDI, Attorney General of the  
 United States; KRISTI NOEM, Secretary,  
 15 United States Department of Homeland  
 Security; MICHAEL BERNACKE, Field  
 Director, West Valley City Office; TODD  
 16 LYONS, Acting Director; JOHN MATTOS,  
 Nevada Southern Detention Center,  
 17                                    Respondents.  
 18

Case No. 2:25-cv-02614-JAD-BNW  
**Federal Respondents’ Response to  
 Petition for Writ of Habeas Corpus and  
 Motion for Temporary Restraining  
 Order**  
**ECF Nos. 8 & 10**

19  
 20                   Federal Respondents through undersigned counsel, hereby file their response to  
 21 Petitioner Hamed Siddiqi’s Petition for Writ of Habeas Corpus and the Motion for Temporary  
 22 Restraining Order. ECF Nos. 8 & 10. The petition and motion should be denied because  
 23 Petitioner’s detention pending removal is authorized under 8 U.S.C. § 1231(a)(6) and does not  
 24 violate his due process rights. In addition, his detention is not unconstitutionally prolonged  
 25 under the Supreme Court Decision, but rather reasonable pursuant to the Supreme Court in  
 26 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).  
 27  
 28

1 This response is supported by the following memorandum of points and authorities.


2 Respectfully submitted this 6th day of February 2026.

3 TODD BLANCHE  
4 Deputy Attorney General of the United States  
5 SIGAL CHATTAH  
6 First Assistant United States Attorney

7 /s/ Nathan M. Claus  
8 NATHAN M. CLAUS  
9 Assistant United States Attorney  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Memorandum of Points and Authorities**

1  
2 Petitioner Siddiqi’s detention pending removal is authorized under 8 U.S.C. § 1231(a)(6).  
3 And it is not unconstitutionally prolonged under the Supreme Court’s decision in *Zadvydas*, 533  
4 U.S. 678. Rather, the detention is “presumptively reasonable” under the Supreme Court’s  
5 decision. *See id.* at 701. Petitioner, however, has not carried his burden of demonstrating there is  
6 “no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at  
7 701. Notwithstanding this precedent, Petitioner claims his detention is unconstitutionally indefinite  
8 because there is no reasonable prospect of removal in the reasonably foreseeable future  
9 Afghanistan. *See* ECF No. 10.

10 Petitioner is subject to a removal order, dated February 13, 2006, following a finding by  
11 an IJ that the Petitioner is removable to Afghanistan, because he is not a citizen of the United  
12 States, his application for asylum was denied, and Siddiqi waived his appeal rights. Petitioner did  
13 not appeal the IJ’s order of removal, and such order became final on March 23, 2006. Exhibit A:  
14  I-213 at 3; Exhibit B: Removal order. Subsequently, Petitioner was placed on  
15 supervised release by Department of Homeland Security (DHS). Exhibit A at 3.


16 On September 17, 2025, Siddiqi was arrested for false statement to/obstruct public officer  
17 and detained at the Clark County Detention Center. *Id.* at 2. Siddiqi was then moved into an  
18 immigration detainer on November 26, 2025. *Id.* A Warrant of Removal/Deportation has also  
19 been issued for Siddiqi. Exhibit C: Warrant of Removal/Deportation. Currently, DHS is making  
20 good faith efforts to obtain travel documents from the Afghanistan Consulate or Embassy so that  
21 this Petitioner can be removed.

22 Contrary to Siddiqi’s arguments in his motion, he does not have a likelihood of success  
23 because his current detainment is valid since it is within the 6-month period, there has been a  
24 change in circumstances due to the arrest and the likelihood that Siddiqi will be removed to  
25 Afghanistan. Second, Siddiqi does not face any irreparable harm here because he is being  
26 properly detained while the valid removal order is being enforced. Finally, the third and fourth  
27 prong of *Winters* favor the respondents because the detention of Siddiqi is valid based on the  
28

1 changed circumstances and the six-month detention period will run on May 27, 2026. Siddiqi's  
2 detention will not be indefinite. Finally, Siddiqi is not being considered for a third country  
3 removal so any concerns raised relating to this are alleviated. Thus, based on these reasons, the  
4 motion should be denied.

## 5 BACKGROUND

### 6 **I. Petitioner's Immigration and Criminal History**

7 Siddiqi entered the US as a refugee in 1996 and in 1997, was given a lawful permanent  
8 resident status. Exhibit A:  I-213 at 3. However, after Siddiqi was convicted of an  
9 aggravated felony in 2006, he was ordered for removal to Afghanistan. *Id.*; *see also* Exhibit B:  
10 Removal Order. This order is final since Siddiqi waived his appeal rights. Exhibit B at 2. Siddiqi  
11 was then released on an Order of Supervision on May 17, 2006. Exhibit A at 3.

12 After a series of criminal convictions in 2019, Siddiqi was then detained, but after a  
13 certain time, he was released again in 2020 with an Order of Supervision due to "no significant  
14 likelihood of removal in the foreseeable future." *Id.* at 3-4.

15 On September 17, 2025, Siddiqi was arrested for false statement to/obstruct public officer  
16 and detained at the Clark County Detention Center. *Id.* at 2. Siddiqi was then moved into an  
17 immigration detainer on November 26, 2025. *Id.* A Warrant of Removal/Deportation has also  
18 been issued for Siddiqi. Exhibit C: Warrant of Removal/Deportation.

19 Siddiqi has not had any bond hearing before Executive Office Immigration Review  
20 (EOIR).<sup>1</sup> Enforcement and Removal Operations (ERO) has requested travel documents from  
21 the Afghanistan embassy since late December 2026 and that request is pending as of February 2,  
22 2026.

### 23 **II. Procedural History**

24 Petitioner filed his amended petition on January 27, 2026 in which he raised procedural  
25 and substantive due process and APA violations regarding his recent detention. ECF No. 8  
26

---

27 <sup>1</sup> The Information in this paragraph has been provided by the U.S. Immigration and  
28 Customs Enforcement and should this court request, can be supported by a declaration.

1 Essentially, Siddiqi argues that “Respondents’ re-detention of Mr. Siddiqi is an egregious violation  
2 of the Constitution, the Immigration and Nationality Act, and their own policies and regulations.  
3 Respondents have no reason to believe that they will now be able to remove Mr. Siddiqi.” *Id.* at  
4 2:15-18. Petitioner has also filed a motion for temporary restraining order arguing the same basis  
5 ECF No. 10.

6 Federal Respondents submit this memorandum of law in response to Petitioner’s motion.

### 7 **III. Relevant Statutory and Regulatory Background**

#### 8 **A. Removal and Detention Under 8 U.S.C. § 1231(a)**

9 Where, as here, an alien is subject to a final order of removal, there is a 90-day “removal  
10 period,” during which the government “shall” remove the alien. 8 U.S.C. § 1231(a)(1). Detention  
11 during this period is mandatory. *See* 8 U.S.C. § 1231(a)(2). And the mandatory removal period  
12 begins on the latest of three possible dates: (1) the date an order of removal becomes  
13 “administratively final,” (2) the date of the final order of any court that entered a stay of removal,  
14 or (3) the date the alien is released from non-immigration detention. 8 U.S.C. § 1231(a)(1)(B).  
15 There are at least three potential outcomes in the event the government does not remove an alien  
16 during the 90-day mandatory removal period. First, the government may release the alien subject  
17 to conditions of supervised release. *See* 8 U.S.C. § 1231(a)(3). Second, the government may  
18 extend the removal period if the alien “fails or refuses to make timely application in good faith for  
19 travel or other documents necessary to the alien’s departure or conspires or acts to prevent the  
20 alien’s removal subject to an order of removal.” 8 U.S.C. § 1231(a)(1)(C). And finally, the  
21 government may further detain certain categories of aliens, including those “inadmissible” under  
22 8 U.S.C. § 1182. *See* 8 U.S.C. § 1231(a)(6). Continued detention under this latter category is often  
23 referred to as the “post removal period.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021).  
24 The INA does not place an explicit time limit on how long detention during the “post-removal-  
25 period” can last. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). But the Supreme  
26 Court has held that the government may only detain aliens in the post-removal-period for the time  
27 “reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533  
28

1 U.S. at 689. And the Supreme Court further clarified that a six-month period of detention is  
2 “presumptively reasonable.” *Id.* at 701. “After this 6-month period, once the alien provides good  
3 reason to believe that there is no significant likelihood of removal in the reasonably foreseeable  
4 future, the Government must respond with evidence sufficient to rebut that showing.” *Id.*

### 5 **B. Orders of Supervision**

6 In the event the government does not further detain and instead releases the alien at the  
7 end of the 90-day mandatory removal period, the government must do so under conditions of  
8 supervised release. *See* 8 U.S.C. § 1231(a)(3) (providing that an alien who “does not leave or is  
9 not removed within the removal period ... shall be subject to supervision”); *see also* 8 C.F.R. §§  
10 241.4(j); 241.5. Regulations promulgated pursuant to the INA require that conditions of  
11 supervised release include reporting to an immigration officer; making “efforts to obtain a travel  
12 document and assist[ing] the [government] in obtaining a travel document”; reporting for  
13 physical and mental examinations; obtaining advance approval of travel; and providing ICE with  
14 written notice of any address changes. *See* 8 C.F.R. § 241.5(a).

15 If the alien violates a condition of release, the government can revoke the order of  
16 supervision and return the alien to custody. *See* 8 C.F.R. § 241.4(l). In that scenario, the  
17 government must notify the alien of “the reasons for revocation,” and “conduct an initial  
18 interview promptly” to give the alien “an opportunity to respond to the reasons for revocation  
19 stated in the notification.” *See id.* § 241.4(l)(1). If the alien is not released after the initial  
20 interview, there is a subsequent review process, one which entails a records review and  
21 scheduling of an interview which ordinarily takes place within three months of the revocation of  
22 release. *Id.* § 241.4(l)(3). The final review includes an evaluation of any disputed facts, and a  
23 decision as to whether the facts as determined support revocation and further denial of release.  
24 *Id.* Thereafter, the government conducts annual custody reviews in accordance with 8 C.F.R.  
25 §§ 241.4(i), (j), and (k). *Id.*

## 26 **LEGAL ARGUMENT**

### 27 **I. The Court Lacks Jurisdiction Over the Petition**

28

1           **A.       The INA and REAL ID Act Deprive This Court of Jurisdiction**

2           Federal courts are courts of limited jurisdiction. *See Kokkonen v. Guardian Life Ins. Co.*  
3 *of Am.*, 511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution and  
4 statute, which is not to be expanded by judicial decree.” *Id.* (citations omitted); *see also*  
5 *Sheldon v. Sill*, 49 U.S. 441, 448 (1850) (“Courts created by statute can have no jurisdiction  
6 but such as statute confers.”); *cf. Romano v. Warden, FCI Fairton*, No. 23-2919 (CPO), 2025 WL  
7 1189877, at \*8 (D.N.J. Apr. 24, 2025) (observing, in prison habeas context, “[f]ederal courts are  
8 courts of limited jurisdiction,” and where “Congress has committed a decision to the  
9 unreviewable discretion of the BOP . . . § 2241 offers no basis for judicial intervention.”).

10           Through this habeas action, Petitioner challenges the recent revocation of his supervised  
11 release and present detention for purposes of executing a final order of removal. Congress,  
12 however, divested this Court from hearing such claims by way of the INA and the REAL ID Act.  
13 *See* 8 U.S.C. §§ 1252(b)(9), (g). For these reasons, as discussed below, the Court lacks  
14 jurisdiction over Petitioner’s claims challenging the revocation of supervised release and re-  
15 detention pending removal.

16           At the outset, 8 U.S.C. § 1252(g), as amended by the REAL ID Act, deprives courts of  
17 jurisdiction—including habeas corpus jurisdiction—over reviewing “any” claim “arising from  
18 the decision or action” to (among other things) “execute removal orders.” Put differently, this  
19 provision bars habeas review in federal district court of claims arising from a decision or action to  
20 “execute” a final order of removal. *See Reno v. American-Arab Anti-Discrimination Committee*  
21 *(“AADC”)*, 525 U.S. 471, 482 (1999).<sup>2</sup> That provision bars Petitioner’s claims here.

22  
23  
24 <sup>2</sup> Congress initially passed § 1252(g) in the Illegal Immigration Reform and Immigrant  
25 Responsibility Act of 1996, Pub. L. 104-208, 110 Stat. 3009. In 2005, Congress amended §  
26 1252(g) by adding “(statutory or nonstatutory), including section 2241 of title 28, United States  
27 Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title” after  
28 “notwithstanding any other provision of law.” REAL ID Act of 2005, Pub. L. 109-13, §  
106(a), 119 Stat. 231, 311. After Congress enacted the Homeland Security Act of 2002, §  
1252(g)’s reference to the “Attorney General” includes the Secretary of Homeland Security. 6  
U.S.C. § 202(3).

1 Indeed, every circuit court of appeals to address the issue has held that § 1252(g)  
2 eliminates subject-matter jurisdiction over habeas challenges (including those raising  
3 constitutional claims) to an arrest or detention for the purpose of executing a final removal order.  
4 *See Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022) (holding court lacked jurisdiction over  
5 habeas challenge to the exercise of discretion to execute removal order); *see also Tazu v. Att’y*  
6 *Gen. United States*, 975 F.3d 292, 297 (3d Cir. 2020) (“The plain text of § 1252(g) covers  
7 decisions about *whether* and *when* to execute a removal order.”); *E.F.L. v. Prim*, 986 F.3d 959,  
8 964–65 (7th Cir. 2021) (holding § 1252(g) barred review of decision to execute removal order  
9 while individual sought administrative relief); *Camarena v. Dir., Immigr. & Customs Enft.*, 988  
10 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause or  
11 claim brought by an alien arising from the government’s decision to execute a removal order. If  
12 we held otherwise, any petitioner could frame his or her claim as an attack on the government’s  
13 *authority* to execute a removal order rather than its *execution* of a removal order.”); *Hamama v.*  
14 *Adducci*, 912 F.3d 869, 874 (6th Cir. 2018) (“Under a plain reading of the text of the statute, the  
15 Attorney General’s enforcement of long-standing removal orders falls squarely under the  
16 Attorney General’s decision to execute removal orders and is not subject to judicial review.”)<sup>3</sup>

17 The Third Circuit’s decision in *Tazu* is instructive. There, the petitioner sought to challenge  
18 the government’s decision to re-detain him for prompt removal, claiming — much like Petitioner  
19 here — that a revocation of supervised release without notice and a revocation interview allegedly  
20 violated agency rules and due process. *See Tazu*, 975 F.3d at 298. The Third Circuit found that  
21 claim barred by 8 U.S.C. § 1252(g) because it sought to challenge “a key part of executing” a

22 <sup>3</sup> Relatedly, § 1252(g) bars district court review of challenges to the method by which DHS  
23 chooses to commence removal proceedings. *See Alvarez v. U.S. Immigr. & Customs Enft.*, 818  
24 F.3d 1194, 1203 (11th Cir. 2016) (“By its plain terms, [§ 1252(g)] bars us from questioning ICE’s  
25 discretionary decisions to commence removal — and thus necessarily prevents us from  
26 considering whether the agency should have used a different statutory procedure to initiate the  
27 removal process.”); *Saadulloev v. Garland*, No. 3:23-CV-00106, 2024 WL 1076106, at \*3 (W.D.  
28 Pa. Mar. 12, 2024) (“The Government’s decision to arrest Saadulloev on April 4, 2023, clearly is  
a decision to ‘commence proceedings’ that squarely falls within the jurisdictional bar of §  
1252(g).”).

1 removal order: a “short re-detention for removal.” *Id.* As the Third Circuit recognized, re-  
2 detaining the petitioner was “simply the enforcement mechanism the [government] picked to  
3 execute [the petitioner’s] removal order.” *Id.* at 298-99. And § 1252(g) “funnels review” of such  
4 claims away from the district courts, and to the courts of appeals through a petition for review.  
5 *Id.* at 299. Here, as in *Tazu*, Petitioner challenges the enforcement mechanism utilized to execute  
6 his final order of removal: the decision to revoke supervised release and re-detain him pending  
7 removal. Here, as in *Tazu*, this Court lacks jurisdiction over such claims under 8 U.S.C. §  
8 1252(g).

9       Petitioner’s challenges regarding the execution of his final removal order are also  
10 foreclosed under 8 U.S.C. § 1252(b)(9). In passing the REAL ID Act, Congress prescribed a  
11 single path for Article III review of removal orders: “a petition for review filed with an  
12 appropriate court of appeals.” 8 U.S.C. § 1252(a)(5); *see also Verde-Rodriguez v. Atty. Gen.*,  
13 734 F.3d 198, 201 (3d Cir. 2013). And as the REAL ID Act further provides. “[j]udicial review  
14 of all questions of law and fact, including interpretation of constitutional and statutory  
15 provisions, arising from any action taken or proceeding brought to remove an alien from the  
16 United States under this subchapter shall be available only in judicial review of a final order  
17 under this section.” 8 U.S.C. § 1252(b)(9) (emphasis added). Read in conjunction, 8 U.S.C. §  
18 1252(b)(9) and § 1252(a)(5) express Congress’s intent to funnel judicial review of every aspect  
19 of removal proceedings into a petition for review filed in the courts of appeals. *See Nasrallah v.*  
20 *Barr*, 590 U.S. 573, 580 (2020) (recognizing that these provisions “clarified that final orders of  
21 removal may not be reviewed in district courts, even via habeas corpus, and may be reviewed  
22 only in the courts of appeals.”); *see also Bonhometre v. Gonzales*, 414 F.3d 442, 446 (3d Cir.  
23 2005) (highlighting Congress’s “clear intent to have all challenges to removal orders heard in a  
24 single forum (the courts of appeals)” via petition for review). These provisions sweep more  
25 broadly than § 1252(g). *See Reno*, 525 U.S. at 483. Indeed, pursuant to § 1252(b)(9) ad  
26 1252(a)(5), “most claims that even relate to removal” are improper if brought before the district  
27 court. *E.O.H.C. v. Sec’y United States Dep’t of Homeland Sec.*, 950 F.3d 177, 184 (3d Cir.  
28

1 2020); *see also Reno*, 525 U.S. at 483 (describing § 1252(b)(9) as an “unmistakable zipper  
2 clause,” and defining a zipper clause as one “that says ‘no judicial review in deportation cases  
3 unless this section provides judicial review.’”).

4 Here, 8 U.S.C. § 1252(b)(9) deprives this Court of jurisdiction over Petitioner’s claims.  
5 Once again, the Third Circuit’s *Tazu* decision guides the analysis. In another part of that  
6 decision, the Third Circuit held that the same claims concerning a revocation of supervised  
7 release and re-detention which were barred under 1252(g) were also barred under 1252(b)(9)  
8 because the claims arose from actions taken to execute the petitioner’s removal. 975 F.3d at 299.  
9 Here, as in *Tazu*, Petitioner’s claims challenge the government’s decision to revoke supervised  
10 release and re-detain him for removal. Petitioner’s claims arise directly out of actions taken to  
11 remove him, and the questions raised by those claims are intertwined with his removal. *See id.*  
12 Another recent decision from the District Court in *Khalil v. Joyce*, No. 25-1963 (MEF), ECF No.  
13 214, 2025 WL 1232369 (D.N.J. Apr. 29, 2025), does not cast doubt on the conclusion that 8  
14 U.S.C. §§ 1252(g) and 1252(b)(9) apply here. In that case, unlike here, the petitioner had not  
15 been issued a final removal order, and so the District Court concluded that § 1252(b)(9) did not  
16 apply because that provision “takes away federal district court jurisdiction only after an order of  
17 removal has been entered,” and “none ha[d] been entered” in that case. *Id.* at \*60. As to §  
18 1252(g), the District Court found that it was inapplicable because the provision “pulls away  
19 jurisdiction over specific actions” by DHS—“not over actions by the Secretary of State, like [the]  
20 determination” at issue, “and not over across-the-board policies, like the one alleged” in that case.  
21 *Id.* Here, Petitioner does not challenge any action by the Secretary of State, nor does he attack any  
22 alleged broad-based policies. The reasoning behind the recent jurisdictional decision in *Khalil*  
23 does not affect the conclusion here.

1 That conclusion, for the reasons above, is that Petitioner’s claims fall within the INA’s  
 2 jurisdiction-stripping provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9), so the Court should  
 3 dismiss the petition for lack of jurisdiction.<sup>4</sup>

4 **B. Petitioner’s Motion fails because his Detention is Lawful**

5 There is no dispute that Petitioner is subject to a final order of removal. Exhibit B. As a  
 6 result, the “post-order” detention provisions of 8 U.S.C. § 1231 govern. Those provisions require  
 7 a 90-day mandatory removal period during which immigration officials must detain the alien  
 8 while attempting to secure his or her removal. *See* 8 U.S.C. §§ 1231(a)(1), (2); *see Zadvydas*,  
 9 533 U.S. at 683 (“After entry of a final removal order and during the 90-day removal period quo  
 10 . . . aliens must be held in custody.” (internal citation omitted)). Congress, however, provided for  
 11 the detention of aliens following the 90-day removal period in certain circumstances. As  
 12 discussed, the Supreme Court has interpreted 8 U.S.C. § 1231(a)(6) to allow for post-order  
 13 detention for a period “reasonably necessary to bring about the alien’s removal from the  
 14 United States. *Zadvydas*, 533 U.S. at 689. And the Court held that detention for a period of six  
 15 months is “presumptively reasonable.” *Id.* After that six-month period, the alien bears the  
 16 burden of showing that “there is no significant likelihood of removal in the reasonably  
 17 foreseeable future.” *Id.* If the alien successfully makes that showing, “the Government must  
 18 respond with evidence sufficient to rebut that showing.” *Id.* In addition, the 90-day removal  
 19 period may be tolled and the alien “may remain in detention during such extended period if [he  
 20 or she] fails or refuses to make timely application in good faith for travel or other documents  
 21

---

22 <sup>4</sup> Respondents are also aware of another out-of-district case *Patel v. Barr*, No. CV 20-3856, 2020  
 23 WL 6888250, at \*3 (E.D. Pa. Nov. 24, 2020), but respectfully submit that the case is also  
 24 distinguishable. In *Patel*, the district court held that the jurisdiction-stripping provisions in 8  
 25 U.S.C. §§ 1252(b)(9) and 1252(g) did not apply, notwithstanding *Tazu*, because while *Tazu* had a  
 26 pending petition for review and had been granted a stay of removal, *Patel* had neither. Because,  
 27 in *Patel*, the Board of Immigration Appeals delayed ruling on *Patel*’s various motions, the court  
 28 found that *Patel* “ha[d] no access to judicial review.” *Id.* at \*3. Here, however, Petitioner’s  
 immigration decisions are administratively final. Petitioner could have sought review of the  
 immigration judge’s decision. But he did not, and waived his administrative appeal, thus  
 rendering that decision by the immigration judge administratively final.

1 necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an  
2 order of removal." 8 U.S.C. § 1231(a)(1)(C).

3 Here, Petitioner has been detained in the past for the 90-day removal period until his  
4 latest release on an order of supervision on May 6, 2020. Exhibit A at 3. He now challenges his  
5 present detention, which began on November 26, 2025, when ICE revoked Petitioner's supervised  
6 release by serving him with a Warrant of Removal/Deportation after Siddiqi's arrest for the  
7 violation of the law. Exhibit C. That detention is lawful and presumptively reasonable under  
8 *Zadvydas*. To hold otherwise, Petitioner would have to demonstrate that he has been in (1) "post-  
9 removal order detention in excess of six months," and there is (2) "evidence of a good reason to  
10 believe that there is no significant likelihood of removal in the reasonably foreseeable future."  
11 *Jaime F. v. Barr*, No. CV 19-20706 (ES), 2020 WL 2316437, at \*5 (D.N.J. May 11, 2020)  
12 (quotation omitted); *see also, e.g., Qing Di Wang v. Carbone*, No. CIV.A. 05-2386 (JAP), 2005  
13 WL 2656677, at \*3 (D.N.J. Oct. 17, 2005). Petitioner makes neither showing. The six months for  
14 this removal period will be completed on May 25, 2026.

15 Further, Siddiqi attempts to argue that the 6-month detention is cumulative and therefore  
16 this detention is unwarranted, but fails to provide case law to support this argument. ECF No. 10 at  
17 6:3-11. However, this is not the case. As the Supreme Court has indicated in *Zadvydas*, "[t]his 6-  
18 month presumption, of course, does not mean that every alien not removed must be released after  
19 six months. To the contrary, an alien may be held in confinement until it has been determined that  
20 there is no significant likelihood in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701;  
21 *see also Tanha v. Warden, Balt. Det. Facility*, 2025 U.S. Dist. LEXIS 140142, \*19 (explaining  
22 how the main issue in *Zadvydas* was "principally the 'serious constitutional questions' raised by a  
23 statute permitting (on its face) indefinite detention" and how the Supreme Court set in place the 6-  
24 month period of presumptive reasonableness).

25 Even if this court adopts the position taken by other courts in this district that the 6 months  
26 period is cumulative and to hold otherwise would allow ICE to abuse the rules, such an abuse is  
27 not present here. Siddiqi was released in 2006 on an order of supervision after that 6-month period  
28

1 ran and then again in 2020 when that period ran. Exhibit A at 3. Further these holds were only  
2 made after Siddiqi was arrested for violation of the law. *Id.* Thus, under these specific set of events,  
3 ICE is not demonstrating a malicious holding pattern here as evidenced by the past holding of  
4 Siddiqi.

5 **B. There is a significant likelihood of removal in the reasonably foreseeable  
6 future**

7 The facts here show that there is a significant likelihood of removal in the reasonably  
8 foreseeable future. Over the last 3 years, ICE has removed 263 persons to Afghanistan: 44 in 2023;  
9 132 in 2024; and 60 in 2025. *See* Exhibit D: Printout of ICE Statistics on Removal related to  
10 Afghanistan.<sup>5</sup> Further this number was much smaller in 2020 through 2021 (25 and 14  
11 respectively), so Siddiqi’s contention about the likelihood of this current removal being the same  
12 as in 2020 is not supported by the numbers on actual Afghanistan citizens being removed in light  
13 of the increased removal of persons with this country of origin. *See* Exhibit E: 2024 ICE Annual  
14 Report at 97.<sup>6</sup>

15 **C. ICE did not violate its own regulations**

16 As explained above, ICE’s recent detention of Siddiqi is not contrary to any policies or  
17 procedures. Therefore, Siddiqi’s arguments about the length of his detention are not contrary to  
18 any internal policies of ICE, especially since he cannot point to any specific language, other than  
19 a general citation/discussion of § 1231(a)(6) as the basis for this argument.

20 However, Petitioner argues that in addition to the above argument that “there are no  
21 changed circumstances that justify re-detaining Mr. Siddiqi.” ECF No. 10 at 7:21-24. However,

22 <sup>5</sup> This information can be found at <https://www.ice.gov/statistics>. Further this chart can  
23 be created by navigating to the “U.S. Immigration and Customs Enforcement Removal  
24 Statistics” chart and selecting the Country of Citizenship filter and selecting “Afghanistan.”  
25 Respondents request that this court take judicial notice of this “matter of public record” this is  
26 part of an official government website. *See Mack v. South Bay Beer Distrib.*, 798 F.2d 1279,  
27 1282 (9th Cir.1986) (under Fed.R.Evid. 201, a court may take judicial notice of “matters of  
28 public record.”)

<sup>6</sup> This document can be found at  
<https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf>. Respondents request that this  
court take judicial notice of this “matter of public record” since this is a public document  
available on a US government website. *See Mack*, 798 F.2d at 1282.

1 Mr. Siddiqi's arrest for another criminal offense is a changed circumstance. However, in addition  
2 to this change of fact, as explained above, there has been an increase in the amount of the  
3 individuals who have been removed to Afghanistan, so there are sufficient changed  
4 circumstances that lawfully justify re-detaining Mr. Siddiqi.

5 **D. There is no third country removal action here.**

6 Under Article III of the U.S. Constitution, federal courts may adjudicate only actual,  
7 ongoing cases or controversies. *Deakins v. Monaghan*, 484 U.S. 193, 199 (1988). Siddiqi spends  
8 a considerable amount of his brief arguing about fears of a third country removal. ECF No. 10 at  
9 8:8-11:6. However, as of this filing, there are no intentions, plans or efforts being made for a  
10 third country removal of Siddiqi since the removal plans are targeted on obtaining the necessary  
11 travel documents from the Afghanistan embassy in order to effectuate removal.

12 The only irreparable harm that Siddiqi offers in his motion is that concerns related to the  
13 third country removal and a general assertion that "other threats to Mr. Siddiqi's health and life  
14 independently constitute irreparable harm." *Id.* at 11:7-12:2. However, since Siddiqi is not  
15 subject to a third country removal, the only irreparable harm alleged is a general allegation of  
16 threats to "Mr. Siddiqi's health and life independently." "Speculative injury does not constitute  
17 irreparable injury sufficient to warrant granting a preliminary injunction. A plaintiff must do  
18 more than merely allege imminent harm . . . a plaintiff must demonstrate immediate threatened  
19 injury as a prerequisite to preliminary injunctive relief." *Caribbean Marine Servs. Co., Inc. v.*  
20 *Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988); see also *Emanuel v. Morda*, 2025 U.S. Dist.  
21 LEXIS 101834, \*4, 8 (the Court denying injunctive relief for plaintiff because the "Plaintiff's  
22 broad, conclusory allegations are insufficient to warrant the extraordinary remedy of  
23 preliminary injunctive relief.")

24  
25 **E. The balance of hardships and the public interest weigh heavily in Respondents' favor**

26 Siddiqi argues that the third and fourth *Winters* factors favor him because (1)  
27 respondents are in violation of the law and should comply with the law and (2) Siddiqi faces  
28

1 unlawful, indefinite detention and removal to a third country where he is likely to suffer  
2 imprisonment and serious harm. ECF No. 10 at 12:3-22. However, as explained above, the  
3 detention of Siddiqi is valid and lawful based on the changed circumstances and the six-month  
4 detention period will run on May 27, 2026. Siddiqi's detention will not be indefinite. Finally,  
5 Siddiqi is not subject to a third country removal so any concerns raised relating to this are  
6 alleviated.

7 **CONCLUSION**

8 Based on the foregoing, Siddiqi does not have a likelihood of success because his current  
9 detainment is valid and lawful since it is within the 6-month period, there has been a change in  
10 circumstances due to his arrest for a criminal offense and there is a significant likelihood that  
11 Siddiqi will be removed to Afghanistan in the reasonably foreseeable future. Second, Siddiqi  
12 does not face any irreparable harm here because he is being lawfully detained while the valid  
13 removal order is being enforced. Finally, the third and fourth prong of Winters favor the  
14 respondents because the detention of Siddiqi is valid based on the changed circumstances and the  
15 six-month detention period will run on May 27, 2026. Siddiqi's detention will not be indefinite.  
16 Finally, Siddiqi is not subject to a third country removal so any concerns raised relating to this  
17 are alleviated. Thus, based on these reasons, the motion should be denied.

18 For the foregoing reasons, the Court should deny the Motion for Temporary Restraining  
19 Order and Petition for Writ of Habeas Corpus.

20  
21 Respectfully submitted this 6th day of February 2026.

22 TODD BLANCHE  
23 Deputy Attorney General of the United States  
24 SIGAL CHATTAH  
25 First Assistant United States Attorney

26 /s/ Nathan M. Claus  
27 NATHAN M. CLAUS  
28 Assistant United States Attorney