

THE HONORABLE TANA LIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAGDAS KESKIN,	)	No. CV25-2737-TL
Petitioner,	)	
vs.	)	REPLY TO FEDERAL
	)	RESPONDENTS' RESPONSE TO
PAMELA BONDI, et al.,	)	PETITION FOR WRIT OF HABEAS
Respondents.	)	CORPUS

I. INTRODUCTION

Cagdas Keskin, through counsel, submits this reply in support of his petition for a writ of habeas corpus. Mr. Keskin, a man with no criminal history, came to this nation seeking asylum and freedom from persecution based on his ethnic background. Although immigration authorities denied him asylum, they recognized the danger he would face if returned to his native Turkey and granted him withholding of removal. Nevertheless, the Government has kept him detained, in limbo, for over fifteen months, with no indication of when, if ever, he will be deported and what the circumstances of that deportation would be. Based on that situation and the Supreme Court's holding that immigrants with final orders of deportation may not be detained indefinitely, he filed a petition for a writ of habeas corpus, asking to be released on bond and for precautions to be put in place to ensure he is not deported to a third country where he will face additional strife, torture, or the threat of a return to his home country. The Government responds, not by refuting the factual arguments—something they are incapable of doing because the facts overwhelmingly favor Mr. Keskin—or rebutting his legal arguments

1 about the propriety of indefinite detention—another insurmountable task—but instead
2 arguing that some (but not all) of the remedies he requested or the means he seeks to
3 obtain those remedies are legally inappropriate. The Government is mistaken as to those
4 points as illustrated below. However, even if this Court agrees with *everything* argued
5 in the Government’s pleading, Mr. Keskin’s basic arguments still stand and there is no
6 valid legal reason articulated as to why he should continue to be detained. Mr. Keskin is
7 deserving of habeas relief and should be released with the utmost urgency and with
8 precautions in place to ensure he is not immediately re-detained or shipped to a third
9 country where he would be subject to danger, persecution, or repatriation to Turkey.

10 **II. ARGUMENT**

11 **A. The Government makes no effort to rebut Ground One, namely that** 12 **Mr. Keskin’s continued detention is unlawful under the Supreme** 13 **Court’s holding in *Zadvydas v. Davis*.**

14 Mr. Keskin has overwhelmingly met his burden to show that “there is no
15 significant likelihood of removal in the reasonably foreseeable future” to the point that
16 the Government has not even argued to the contrary. *See Nadarajah v. Gonzales*, 443
17 F.3d 1069, 1077 (9th Cir. 2006); *see Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)
18 (holding that, after the presumptively reasonable period of detention of six months,
19 “once the alien provides good reason to believe that there is no significant likelihood of
20 removal in the reasonably foreseeable future, the Government must respond with
21 evidence sufficient to rebut that showing.”). Not only does the Government fail to
22 provide facts demonstrating how he supposedly is not being detained indefinitely, they
23 do not even assert that his detention is anything but indefinite. In fact, the Respondent’s
24 fail to engage with *Zadvydas* and its progeny at all, only citing to the case once in the
25 Return and doing so only in a rote recitation of the background of the immigration law,
26 not as it applies to Mr. Keskin’s case. Dkt. 9 at 5–6, 9.

1 Mr. Keskin's final removal order was issued on May 30, 2025, well over six
2 months ago. Dkt. 9 at 15. The burden thus shifts to the Government to "respond with
3 evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701. But Respondents
4 provide no evidence or even unsupported argument that removal is likely at all, much
5 less in the reasonably foreseeable future. The only reasonable interpretation of why the
6 Government failed to engage with Mr. Keskin's factual allegations concerning the
7 indefinite nature of his detention or the legal authority to which he cites is that the
8 Government has no response. Mr. Keskin is categorically being held indefinitely. There
9 is no indication whatsoever of when, if ever, he will be deported, or even what efforts
10 have been made to achieve some progress in securing his deportation and, with it,
11 release from the incarceration he is experiencing despite being convicted of no crime.
12 Because the Government fails to even attempt to meet its burden, this Court should
13 recognize that Mr. Keskin is improperly being detained indefinitely. *See Singh v.*
14 *Whittaker*, 362 F. Supp. 3d 93, 101–02 (W.D.N.Y. 2019) ("[I]f DHS has no idea of
15 when it might reasonably expect Singh to be repatriated, this Court certainly cannot
16 conclude that his removal is likely to occur—or even that it might occur—in the
17 reasonably foreseeable future.") (internal citations omitted). Further, as the Government
18 embraces the fact that a writ of habeas corpus is the appropriate remedy in such
19 situations, he asks that this Court grant him that relief and order him released on bond.
20 Dkt. 9 at 16 ("[H]abeas corpus is a fully adequate remedy on a claim seeking redress for
21 custodial detention that is alleged to be unlawful . . .").

22 **B. The Government's remaining arguments are misplaced and**
23 **irrelevant.**

24 As demonstrated above, nothing in the Respondent's pleading argues that
25 Mr. Keskin should not be granted the principal relief he requests, namely, to be released
26 from custody due to his indefinite detention, and, therefore, his petition should be

1 summarily granted as to that issue. However, the Government does make arguments
2 about the types of additional remedies Mr. Keskin requested. He will address them in
3 turn.

4 **1. This Court unquestionably has subject matter jurisdiction over**
5 **Mr. Keskin's claims.**

6 In his second ground for relief, Mr. Keskin highlighted the fact that his
7 continued detention violates not one but a constellation of laws, arguing it is a
8 "violation of the Fifth Amendment, 8 U.S.C. § 1231, Convention Against Torture,
9 implementing regulations, and the Administrative Procedure Act." Dkt. 6 at 15. The
10 Government responds that Mr. Keskin's "Administrative Procedure Act claims must be
11 dismissed for lack of Subject Matter Jurisdiction. Dkt. 9 at 16. The Government's
12 arguments are misplaced. First, it bears noting that this argument responds only to a
13 claim regarding notice of prospective third country removal, not to the basic argument
14 that Mr. Keskin's continued detention is unlawful. Second, Mr. Keskin alleged that
15 deporting him to a third country without notice would violate not only the
16 Administrative Procedure Act but also, *inter alia*, the Convention Against Torture and
17 8 U.S.C. § 1231. Dkt. 6 at 15–16. So even if the Court agrees with the Government that
18 the Administrative Procedure Act is not the proper vehicle through which to assert that
19 notice is required before deportation to a third country, that does not negate the
20 remaining reasons why notice is required.

21 **2. Arbitrary re-detention is a very real possibility and must be**
22 **prohibited.**

23 The Government next argues that there is no reason to restrict the Government
24 from re-detaining Mr. Keskin if he is ordered released because the procedures in place
25 already are sufficient and any request would be premature. However, as Judge
26 Whitehead noted in a recent ruling, "[w]ithout any re-detention standard, the
Government could theoretically re-detain [the petitioner] after release, which would

render the Court's order meaningless." *Updety v. Bondi*, No. 2:25-cv-02443-JNW, Dkt. 15 at 8. Given that the courts have "broad discretion" in granting habeas relief "as law and justice require" it should fashion an order that ensures its order cannot be thwarted as soon as it is carried out. *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987). Mr. Keskin is not asking for a premature ruling on future conduct. Rather, he is asking for a prohibition on the direct violation of the order this Court will issue releasing him absent some intervening change in circumstances. That is entirely reasonable and appropriate.

3. Due Process precludes Mr. Keskin's removal to a third country without adequate notice and an opportunity to be heard.

Respondents' next main argument that the class litigation in *Dep't of Homeland Sec. v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025), and the Supreme Court's stay of a class-wide preliminary injunction in that case prevents this Court from providing an order barring Mr. Keskin's removal to a third country without due process is also unpersuasive.¹ Respondents argue that Mr. Keskin is bound as a member of the class of individuals governed by the *D.V.D.* nationwide preliminary injunction. Dkt. 9 at 19–20.

First, it again bears noting that this argument also only pertains to the forward-looking relief Mr. Keskin has requested regarding what would happen before he can be deported to a third country, not his request for release on bond due to the impropriety of his continued indefinite detention. Second, notwithstanding that the Supreme Court

¹ The district court in *D.V.D.* granted a preliminary injunction that established procedures DHS and ICE were required to follow before removing a noncitizen to a third country, including written notice and an opportunity to raise a fear-based claim for protection under the Convention Against Torture treaty before removal. *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 25, 2025), *reconsideration denied sub nom.* No. CV25-10676-BEM, 2025 WL 1495517 (D. Mass. May 26, 2025). On June 23, 2025, the United States Supreme Court stayed the district court's preliminary injunction pending appeal in the First Circuit, with no member of the majority offering analysis. *Dep't of Homeland Sec. v. D.V.D.*, -- U.S. ___, 145 S. Ct. 2153 (2025).

1 stayed the nationwide preliminary injunction with no discussion of the merits, this same
 2 argument made against a TRO was rejected by another court in this district in *Nguyen v.*
 3 *Scott*, 796 F. Supp. 3d 703, 732-35 (W.D. Wash. Aug. 21, 2025), and *Abubaka v.*
 4 *Bondi, et al.*, No. CV25-01889-RSL, 2025 WL 3204369, at *2–3 (W.D. Wash. Nov. 17,
 5 2025). Recently, following the reasoning in *Nguyen*, the court granted a TRO
 6 prohibiting the government from removing petitioner to a third country without notice
 7 and a meaningful opportunity to respond. *See Baltodano v. Bondi, et al.*, No. CV25-
 8 1958-RSL, 2025 WL 2987766, at *20–21 (W.D. Wash. Oct. 23, 2025) (citing *Nguyen*
 9 and finding “petitioner is likely to succeed on merits of his claim that he is entitled to
 10 ‘legally required multistep procedures set out in 8 U.S.C. § 1231(b) and required due
 11 process’ before ICE can remove him to a third country.”).

12 As the court explained in *Nguyen*, the Supreme Court in *D.V.D.* provided no
 13 reasoning for its entry of the stay and whether it came to that determination based on
 14 the merits or the procedural posture of the case. *See Nguyen*, 796 F. Supp. 3d 703, 731
 15 (W.D. Wash. 2025) (citing *Merrill v. Milligan*, -- U.S. ___, 142 S. Ct. 879, 879 (2022))
 16 (Kavanaugh, J., concurring) (“The Court’s stay order is not a decision on the merits.”);
 17 *see also Cruz-Medina v. Noem*, -- F.Supp.3d --, 2025 WL 2841488 (D. Md. Oct. 7,
 18 2025) (rejecting government’s argument that the stay order in *D.V.D.* means that
 19 petitioner cannot prevail, stating “[a]ll this Court can do is apply existing precedent and
 20 due process standards, and, under those standards, the Court can discern no rational
 21 basis for stripping Mr. Cruz Medina of the opportunity to appear before an immigration
 22 judge”); *Santamaria Orellana v. Maker*, No. 25-1788-TDC, 2025 WL 2841886
 23 (D. Maryland Oct. 7, 2025) (citing to *Nguyen*, 2025 WL 2419288, at *22) (“This Court
 24 agrees that based on the presently available guidance from the Supreme Court, there is
 25 an insufficient basis upon which to reach a conclusion on which aspects of *D.V.D.* the
 26

1 Supreme Court has rejected, whether they relate to the class certification, the due
2 process claim, or otherwise.”).

3 The *D.V.D.* litigation concerned an earlier version of the ICE guidance, and a
4 primary argument made by the government to the Supreme Court was an objection
5 based on the nationwide scale of the injunction rather than its merits. *See* Gov’t
6 Application for a Stay, *D.H.S. v. D.V.D.*, No. 24A1153 (May 27, 2025), at 19,
7 [https://www.supremecourt.gov/DocketPDF/24/24A1153/359703/20250527153743499_](https://www.supremecourt.gov/DocketPDF/24/24A1153/359703/20250527153743499_DHS_v._DVD_et_al-app_stay.pdf)
8 [DHS_v._DVD_et_al-app_stay.pdf](https://www.supremecourt.gov/DocketPDF/24/24A1153/359703/20250527153743499_DHS_v._DVD_et_al-app_stay.pdf) [<https://perma.cc/8NTN-TQ5D>] (“First, under
9 8 U.S.C. 1252(f)(1), lower federal courts lack jurisdiction to issue *classwide injunctions*
10 that restrain the operation of third-country removals pursuant to 8 U.S.C. 1231(b)”)
11 (emphasis added). In other words, it is likely that the unreasoned Supreme Court order
12 was not forbidding injunctive relief to Mr. Keskin because he is one of many people
13 who has no right to relief, but rather forbidding *mass* relief because Mr. Keskin and
14 others should have proceeded individually in cases just like this one. *See Nguyen*, 796
15 F. Supp. 3d at 732. *See also Sagastizado v. Noem*, No. CV25-00104, -- F.3d --, 2025
16 WL 2957002, *13 (S.D. Tex. Oct. 2, 2025) (“Notably, the class-wide nature of the
17 *D.V.D.* injunction alone could have justified the stay, and that justification would not
18 undermine the merits of an individual claim for relief.”).

19 Finally, the *Nguyen* court made clear that ICE’s current policy “contravenes
20 Ninth Circuit law,” rendering it “impossible to comply both with Ninth Circuit
21 precedent and the policy.” 796 F. Supp. 3d at 728.² The court explained that under
22 Ninth Circuit precedent, “[f]ailing to notify individuals who are subject to deportation
23 that they have the right to apply . . . for withholding of deportation to the country to
24 which they will be deported violates both INS regulations and the constitutional right to

25 ² Although the government does not set forth the policy, this Court discussed ICE’s
26 current policy allowing the removal of aliens to third countries “without the need for
further procedures” under certain conditions in *Baltodano*, 2025 WL 2987766, at *2.

1 due process.” *Id.* at 727 (citing to *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir.
2 1999) (in turn citing *Kossov v. I.N.S.*, 132 F.3d 405, 408 (7th Cir. 1998))). Applying
3 this binding precedent, the court concluded that “Petitioner is likely to succeed on his
4 claim that removal to a third country under ICE’s current policy, without meaningful
5 notice and reopening of his removal proceedings for a hearing, would violate due
6 process.” *Nguyen*, 796 F. Supp. 3d at 728–29. And in *Baltodano*, the court citing to the
7 reasoning in *Nguyen*, concluded that “petitioner is likely to succeed on the merits of his
8 claim that he is entitled to ‘legally required multistep procedures set out in 8 U.S.C.
9 § 1231(b) and required by due process’ before ICE can remove him to a third country.”
10 2025 WL 2987766, at *3.

11 **C. Mr. Keskin has demonstrated the Respondents’ third-country**
12 **removal policy is punitive and unconstitutional.**

13 The Respondents’ next argument again fails to address the arguments regarding
14 the propriety of his continued indefinite detention but is directed solely at Respondent’s
15 claim that the third-party removal policies are punitive. Dkt. 9 at 11.

16 The Respondents first claim Mr. Keskin’s arguments that third country removal
17 is punitive are too speculative and are therefore disfavored. Dkt. 9 at 20–21. However,
18 they are not speculative as he demonstrated countless abuses and ills that have befallen
19 those deported to countries to which they have no connection, and which do not treat
20 detainees humanely. *See* Dkt. 6 at 11–14. That is not speculative. It is real and must be
21 avoided.

22 The Respondents next argue that insufficient facts have been alleged to meet a
23 facial or as-applied challenge, arguing, Mr. Keskin “does not allege which third country
24 he fears removal to, what harm he personally faces, or any circumstances that would
25 make removal punitive in his case.” Dkt. 9 at 21. However, in the petition, Mr. Keskin
26

1 alleged, in part, that “Panama³ and Costa Rica⁴ took in hundreds of deportees . . . and
 2 imprisoned them in hotels, a jungle camp and a detention center.” Dkt. 6 at 12. Costa
 3 Rica and Panama are two possible destinations to which the Respondents could deport
 4 Mr. Keskin. If removed to these countries, Mr. Keskin would likely be subjected to the
 5 punitive conditions outlined in the petition. There are certainly other countries to which
 6 Mr. Keskin fears deportation or that he fears would turn around and send him back to
 7 Turkey if deported there. However, as the Government has not specified where it is
 8 contemplating sending him, he cannot articulate that to every specific country.⁵
 9 However, it is clearly a danger and should be avoided in this case.

10 Courts in this district have made findings that the current third-country removal
 11 policy is punitive, and the Respondents’ practice of third-country removal paired with
 12 imprisonment is intended to be punitive and thus violates due process. *See Abubaka v.*
 13 *Bondi, et al.*, No. CV25-01889-RSL, 2025 WL 3204369, at *7–8 (W.D. Wash. Nov. 17,
 14 2025); *Nguyen*, 796 F. Supp 3d at 732–35. In each of these cases, the district court

16 ³ In Panama, immigrants are forced to choose between repatriation to their country of
 17 origin or detention under conditions that has “sparked backlash from human rights
 18 organizations.” Castano, Danielle, *The U.S.’s Illegal Migrant Deportations to Panama*,
 19 Human rights Research Center (June 5, 2025), available at
 20 <https://www.humanrightsresearch.org/post/the-u-s-s-illegal-migrant-deportations-to-panama> [<https://perma.cc/7JPL-3YXS>]. In this case, even ICE agreed that Mr. Keskin
 would likely face persecution if returned to Turkey in granting him withholding of
 removal.

21 ⁴ According to multiple human rights organizations, migrants expelled to Costa Rica
 22 face conditions that constitute human rights violations. *Costa Rica: New report exposes*
 23 *human rights violations against migrants expelled from the U.S. and warns: “This*
 24 *cannot happen again.”*, Centro Por La Justicia y El Derecho International, (May 22,
 25 2025), available at [https://cejil.org/en/press-releases/costa-rica-new-report-exposes-](https://cejil.org/en/press-releases/costa-rica-new-report-exposes-human-rights-violations-against-migrants-expelled-from-the-u-s-and-warns-this-cannot-happen-again/)
[human-rights-violations-against-migrants-expelled-from-the-u-s-and-warns-this-](https://perma.cc/E8C7-72G2)
[cannot-happen-again/](https://perma.cc/E8C7-72G2) [<https://perma.cc/E8C7-72G2>].

26 ⁵ The fact that the Government essentially concedes, after fifteen months of detention,
 that there is no country to which they have proposed deporting Mr. Keskin is further
 evidence that his detention is clearly indefinite.

1 ordered respondents not to remove the petitioner to any third country where he is likely
2 to face imprisonment upon arrival. *Id*; see also *Baltodano v. Bondi*, et al., No. CV25-
3 1958-RSL, 2025 WL 2987766, at *20–21 (W.D. Wash. Oct. 23, 2025) (citing *Nguyen*
4 and finding “petitioner is likely to succeed on merits of his claim that he is entitled to
5 ‘legally required multistep procedures set out in 8 U.S.C. § 1231(b) and required due
6 process’ before ICE can remove him to a third country.”). Mr. Keskin only requests the
7 same protections—that he have assurances that he will not be swooped up and sent to
8 whatever country will accept him without first having an opportunity to argue against
9 such action.

10 **III. CONCLUSION**

11 For the reasons presented above and in Mr. Keskin’s habeas petition, Mr. Keskin
12 respectfully requests that this Court (1) order Respondents to immediately release
13 Mr. Keskin from custody; (2) order that they not remove or seek to remove him to a
14 third country without notice and meaningful opportunity to respond in compliance with
15 the statute and due process in reopened removal proceedings; (3) order that
16 Respondents may not remove Mr. Keskin to any third country because Respondents’
17 third-country removal program seeks to impose unconstitutional punishment on its
18 subjects; and (4) order all other relief this Court deems just and proper.

19
20 DATED this 26th day of January 2026.

21 Respectfully submitted,

22 s/ *Andrew D. Kennedy*
23 Assistant Federal Public Defender
24 Attorney for Cagdas Keskin
25
26