

THE HONORABLE KYMBERLY K. EVANSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NIRAJ BHANDARI,	)	No. CV25-2747-KKE
Petitioner,	)	
vs.	)	REPLY TO RESPONDENTS'
	)	RESPONSE TO PETITION FOR WRIT
PAMELA BONDI, Attorney General of	)	OF HABEAS CORPUS
the United States, et al.,	)	
Respondents.	)	

I. INTRODUCTION

Niraj Bhandari, through counsel, submits this reply in support of his petition for a writ of habeas corpus. In his petition, Mr. Bhandari demonstrated how he has been detained for over a year with no end in sight and that amounts to an improper indefinite detention, entitling him to a writ of habeas corpus. The Government attempts to respond to Mr. Bhandari's petition not by confronting the facts which all weigh heavily in favor of Mr. Bhandari's release, but instead by attempting to inject a procedural argument that is not only inapplicable to this case, but also would not preclude relief if it were applicable—namely, that his detention is governed by a different statute than the one he alleged. Even if it is governed by a distinct statute, indefinite detention is still not justified or appropriate and habeas relief, or at least a bond hearing, would be warranted regardless of which statute the Court concludes applies. The only factual assertion made by the Government ostensibly to rebut Mr. Bhandari's arguments that his detention has become indefinite and improper is that he was supposedly issued a travel document but

1 immigration officials allowed it to lapse, requiring them to reinitiate the process, one
 2 which the Government has previously admitted can take “several months.” The
 3 Government purports to assure the Court that Mr. Bhandari need not worry about being
 4 sent to a third country and that it has processes in place to ensure he is afforded
 5 adequate process before being deported anywhere other than Nepal. However, the
 6 Government’s previous actions with respect to other detainees, as outlined in
 7 Mr. Bhandari’s petition, demonstrate that safeguards are still needed and the
 8 Department of Homeland Security’s stated policy is unreliable on its own.
 9 Mr. Bhandari’s detention is clearly indefinite at this point and he should be granted
 10 bond, or at least a hearing, as well as protections against being deported to a third
 11 country without adequate notice and safeguards.

12 **II. ARGUMENT**

13 **A. This case is governed by 8 U.S.C. § 1231 as Mr. Bhandari alleged in his** 14 **petition, not 8 U.S.C. § 1225(b) as the Government argues.**

15 The Government’s primary argument against Mr. Bhandari is that he was
 16 detained under 8 U.S.C. § 1225(b) and that statute has different standards and
 17 requirements concerning detention than are present in 8 U.S.C. §1231, the statute that
 18 forms the basis for most of these challenges to indefinite detention. Dkt. 8 at 8.
 19 However, the Government’s argument is not correct. While it is true that some courts
 20 have engaged with the Government’s analysis, as discussed below, courts generally
 21 have recognized that the division between the two statutes at issue is one of timing, not
 22 of the nature of how the process began. As the Ninth Circuit noted in a decision issued
 23 after the Supreme Court’s holding in *Jennings v. Rodriguez*, “[o]nce an alien has a final
 24 removal order that is not subject to a judicial stay, detention authority shifts [from 8
 25 U.S.C. § 1225(b)(2)] to 8 U.S.C. § 1231(a).” *Diaz v. Garland*, 53 F.4th 1189, 1197 (9th
 26 Cir. 2021) (citing *Jennings*, 138 S. Ct. 830, 843 (2018); *Diouf v. Napolitano*, 634 F.3d

1 1081, 1085 (9th Cir. 2011); 8 U.S.C. § 1231(a)(1)(B)); *see also Mejia Rivera v.*
 2 *Florentino*, No. 25-18063, 2025 U.S. Dist. LEXIS 267255, at *4–5 (D.N.J. Dec. 30,
 3 2025) (“Petitioner is subject to a final order of removal. . . . Accordingly, if any
 4 detention statute applies to Petitioner, it is the statute governing post-final orders of
 5 removal detention, 8 U.S.C. § 1231(a).”). In fact, subsequent to *Jennings*, the Supreme
 6 Court broke down when each of the subsections of the INA were applicable to which
 7 parts of the process, confirming that, after a removal order is in place, § 1231 controls:

8 Sections 1226 and 1231 both appear in Part IV of Title 8, chapter 12, of
 9 the United States Code, entitled “Inspection, Apprehension, Examination,
 10 Exclusion, and Removal.” The sections within that part proceed largely in
 11 the sequential steps of the removal process. Sections 1221 to 1224
 12 address the arrival of aliens. Section 1225 provides instructions for
 13 inspecting aliens, expediting the removal of some, and referring others for
 14 a removal hearing. Section 1226 authorizes the arrest and detention of
 15 aliens pending a decision on whether they are to be removed. Section
 16 1227 explains which aliens are deportable. Section 1228 authorizes the
 17 expedited removal of some of those deportable aliens. Sections 1229,
 18 1229a, and 1229b set out the process for initiating and conducting
 19 removal proceedings, and they specify the types of relief that an alien can
 20 request during those proceedings, such as cancellation of removal.
 21 Section 1229c addresses voluntary departure. Section 1230 explains what
 22 to do if an alien is admitted. *And §1231 explains what to do if the alien is*
 23 *ordered removed.*

24 *Johnson v. Guzman Chavez*, 594 U.S. 523, 543–44 (2021) (emphasis added); *see also*
 25 *id.* at 548 (Thomas, J., concurring) (“*Jennings* concerned aliens who the Government
 26 had not yet ordered removed.”); *Jennings*, 583 U.S. at 290 (“[W]hile Rodriguez was
 still litigating his removal in the Court of Appeals, he filed a habeas petition in the
 District Court for the Central District of California”); *id.* at 298 (“*Zadvydas*
 concerned § 1231(a)(6), which authorizes the detention of aliens who have already been
 ordered removed from the country.”).

The Supreme Court’s opinion in *Jennings* explains why its holding should not
 apply to a case like this with a final order of removal, noting that detention under 8

1 U.S.C. § 1225(b) is needed because it “gives immigration officials time to determine an
2 alien’s status without running the risk of the alien’s either absconding or engaging in
3 criminal activity before a final decision can be made.” *Jennings*, 583 U.S. at 286.
4 Multiple components of that statement show it is inapplicable to situations such as that
5 of Mr. Bhandari. First, Mr. Bhandari’s status has already been determined and a final
6 decision about his deportation has indeed been made. This supports the interpretation
7 discussed above that it is inapplicable once a final order of removal has been issued.
8 The Government’s argument may seem persuasive regarding the typical case of
9 someone being detained upon entry who the Government believes will soon be
10 deported, thus authorizing the Government to hold them until the judicial process has
11 run its course and they can be removed. Its persuasiveness wanes significantly when
12 one considers a case like this in which detention is not necessary so the process can
13 continue. Mr. Bhandari is not being detained so the process can run its course. He is
14 instead being detained because the Government has not secured his deportation to
15 Nepal and likely will not do so in the foreseeable future but is unwilling to release him
16 until his travel documents can be secured.¹ Second, the Government has not provided a
17 modicum of evidence that Mr. Bhandari would flee or engage in criminal activity if
18 released. In short, the rationale for the statute, as outlined in *Jennings*, does not support
19 the continued detention of Mr. Bhandari.

20 The Government does not provide controlling or even persuasive authority to
21 support the argument that *Jennings* dictates that § 1225(b) continues to apply after an
22 order of removal and that the Supreme Court’s earlier holding in *Zadvydas v. Davis* is
23 inapposite. Despite using the “*see, e.g.*” signal to suggest that there are plenty of cases
24 coming to the same conclusion the Government wishes this Court to reach, the

25 ¹ This is particularly troublesome when one realizes that, according to the Government,
26 his continued detention is based entirely on the Government failing to deport him
during the time in which his travel document was valid. Dkt. 8 at 7.

Government does not cite to authority supporting the argument. Dkt. 8 at 11. The single case cited by the Government ostensibly providing direct support for the conclusion that, under *Jennings*, § 1231 “is irrelevant” to those who were originally detained under § 1225 is a pre-*Jennings* report and recommendation from a magistrate judge noting that she had previously concluded that § 1231 was inapplicable but that she had requested briefing anyway based on a pending Ninth Circuit case. Dkt. 8 at 11 (citing *Singh v. Holder*, 2013 U.S. Dist. LEXIS 169715, at *2 ((D. Ariz. Aug. 28, 2013)). Then, the case became moot when the defendant was released from custody. *Singh*, 2013 U.S. Dist. LEXIS 169715, at *2. Thus, the issue for which the Government cites the case was not fully analyzed or incorporated into the report and recommendation, much less a final order. *Id.* at *2–3. It is simply not applicable and certainly not one example among a groundswell of cases supporting the Government position, as the Government intimates.

B. Even if this Court agrees with the Government that this case is governed by 8 U.S.C. § 1225(b), that does not preclude relief.

There is admittedly some inconsistency or ambiguity between the statutes and how courts have interpreted them, allowing for disagreement over whether actions such as this are governed by § 1231 or not. However, even if the Court agrees with the Government that § 1225(b) controls this matter, to the exclusion of § 1231, that still does not mean that Mr. Bhandari cannot be granted relief.² It is important to note that

² The Government’s position appears to be that individuals like Mr. Bhandari have no rights and, because they arrived here unlawfully, they can be detained forever with no process. Dkt. 8 at 9–12. That is simply an untenable outcome incompatible with the very principles upon which this nation was founded. It is particularly troublesome when one considers that the Government is arguing for individuals like Mr. Bhandari, who has no criminal history but was apprehended upon entry to the country, to have fewer rights than someone who has been convicted of a crime for which the Government seeks to deport them. Our nation ought not be in the business of locking innocent individuals up and throwing away the key. However, embracing the Government’s argument would suggest that the Government intends to do just that with impunity.

the holding the Court took issue with in *Jennings* was affording detainees automatic periodic detention hearings, not whether there was any avenue to challenge their detention. *Jennings*, 583 U.S. at 312 (“Because the Court of Appeals erroneously concluded that periodic bond hearings are required under the immigration provisions at issue here. It had no occasion to consider respondents’ constitutional arguments on the merits.”). In fact, courts analyzing cases like this, even assuming that § 1231 did not apply, nonetheless concluded that indefinite detention was inappropriate and some review was necessary, even if not the periodic six-month review originally ordered by the lower court in *Jennings*. See, e.g., *Amhirra v. Warden, Nw. Det. Ctr.*, No. CV25-01376-TL, 2025 U.S. Dist. LEXIS 265387, at *10 (W.D. Wash. Dec. 23, 2025). In a recent opinion, Judge Lin considered the same arguments by the Government and recent Supreme Court and Ninth Circuit case law. *Id.* She noted that “[n]early all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, will—at some point—violate the right to due process.” *Id.* (quoting *Maliwat v. Scott*, No. C25-788, 2025 U.S. Dist. LEXIS 152663 (W.D. Wash. Aug. 7, 2025)). Following this near consensus, she concluded that whether a bond hearing was required should depend on the factors developed by this Court in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019):

(1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal.

Amhirra, 2025 U.S. Dist. LEXIS 265387, at *13.

If unwilling to order outright release Mr. Bhandari, this Court should apply the *Banda* factors here, find that the first five weigh in favor of a bond hearing, and order a bond hearing.

1 First, despite having committed no crime Mr. Bhandari has been detained for
2 over a year. Dkt. 8 at 7. As recognized by Judge Lin in a separate case, when evaluating
3 this “most important” of the *Banda* factors, “the ‘context’ of a petitioner’s
4 circumstances is crucial to keep in mind, particularly that ‘[t]he detention that is being
5 examined here is the detention of a human being who has never been found to pose a
6 danger to the community or to be likely to flee if released.’” *Toktosunov v. Wamsley*,
7 No. CV25-1724-TL, 2025 U.S. Dist. LEXIS 252150, *9-10; (quoting *Jamal A. v.*
8 *Whittaker*, 358 F. Supp. 3d at 859 (D. Minn. 2019). *Amhirra* collected four decisions
9 where detentions ranging from 11 to 17 months satisfied this factor. *Id.* at *6.
10 Mr. Bhandari fits squarely within that range of time of detention that has generally been
11 recognized to have satisfied this factor.

12 Second, future lengthy detention is likely. The Government concedes that it has
13 been seeking travel documents for Mr. Bhandari for months and yet, when one was
14 issued, it allowed the document to expire. Dkt. 8 at 7. As noted in Mr. Bhandari’s
15 petition, in a similar case, the Government conceded that obtaining travel documents
16 for Nepal can take “several months” without further specifics, and Judge Robart
17 ultimately deemed the detention indefinite and ordered the petitioner’s release. Dkt. 5 at
18 7 (citing *KC v. Bondi et al.*, No. CV25-02071-JLR, Dkt. 11 at 2.). The Government
19 makes no response to that or Mr. Bhandari’s argument that the recent government
20 upheaval in Nepal makes his deportation there anytime in the near future unlikely. The
21 Government simply argues in a conclusory manner that “Bhandari’s detention is not
22 ‘indefinite.’” Dkt. 8 at 8. The Government provides no indication of when officials
23 anticipate obtaining a travel document for and deporting him, nor an explanation for
24 why the detention is not indefinite. *Singh v. Gonzales*, 448 F. Supp. 2d 1214, 1220
25 (W.D. Wash. 2006) (finding that the Government failed to meet *Zadvydas* standard on
26 rebuttal because it provided “no substantive indication regarding how or when it

1 expect[ed] to obtain the necessary travel documents” to remove the petitioner). Rather,
2 the only discussion in the section addressing the indefinite nature of the detention is at
3 the very end of this section when the Government notes that “[t]he embassy of Nepal
4 already issued one temporary travel document and is expected to issue another travel
5 document for Bhandari.” Dkt. 8 at 12. If anything, that supports the argument that his
6 detention is indefinite because it shows not only that Mr. Bhandari must go through the
7 whole process over again but also that, even once another travel document has been
8 issued, there is no guarantee he will be deported.³

9 If detentions in cases such as these were indeed legitimate and not hopelessly
10 indefinite, one would expect the Government to be able to identify all of the steps it has
11 taken to obtain travel documents, what steps remain, and when those steps could
12 reasonably be expected to be completed. The Government does not do that because it
13 cannot. It merely notes that it prepared a document in December and sent it a month
14 later. There is no indication of what still needs to be done or of how certain we can be
15 that, if the Government gets a travel document this time, it will deport Mr. Bhandari on
16 time. The Government does not know when, if ever, it will be able to deport
17 Mr. Bhandari and, by staying ambiguous, the Government ensures that, when it
18 invariably fails to deliver on the promise to deport him, the Government can return to
19 this Court and continue to argue, without support, that deportation is imminent or that
20 travel documents only need to be requested a third time. The Government has not

21
22 ³ To the extent the Court agrees with Mr. Bhandari that § 1231 applies, this argument
23 further demonstrates that he has overwhelmingly met his burden of showing that “there
24 is no significant likelihood of removal in the reasonably foreseeable future” and the
25 Government has failed to rebut it. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1077 (9th
26 Cir. 2006); *see Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (holding that, after the
presumptively reasonable period of detention of six months, “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.”).

1 shown that Mr. Bhandari will be deported in the foreseeable future and his detention is
2 necessarily indefinite.

3 Third, Mr. Bhandari is imprisoned and the conditions are far from favorable. *See*
4 Sharon Yoo, “Conditions inside Northwest ICE Processing Center ‘a Nightmare,’”
5 King 5 (Oct. 31, 2025), [https://www.king5.com/article/news/community/facing-](https://www.king5.com/article/news/community/facing-race/washington-immigration/nightmare-conditions-inside-ice-detention-center-tacoma/281-1c20754c-93c6-4514-a989-e39ce5cf89d3)
6 [race/washington-immigration/nightmare-conditions-inside-ice-detention-center-](https://www.king5.com/article/news/community/facing-race/washington-immigration/nightmare-conditions-inside-ice-detention-center-tacoma/281-1c20754c-93c6-4514-a989-e39ce5cf89d3)
7 [tacoma/281-1c20754c-93c6-4514-a989-e39ce5cf89d3](https://www.king5.com/article/news/community/facing-race/washington-immigration/nightmare-conditions-inside-ice-detention-center-tacoma/281-1c20754c-93c6-4514-a989-e39ce5cf89d3) [<https://perma.cc/497J-HV78>].
8 As Judge Lin noted, “[c]ourts in this District have found that, at this facility, under
9 circumstances similar to that of Petitioner, this factor favors granting a bond hearing.”
10 *Amhirra*, 2025 U.S. Dist. LEXIS 265387, at *17 (citation modified).

11 Fourth, there is no suggestion that Mr. Bhandari intentionally delayed the
12 expedited removal process. Therefore, “the fourth *Banda* factor weighs in favor of
13 granting a bond hearing.” *Amhirra*, 2025 U.S. Dist. LEXIS 265387, at *17.

14 Fifth, the Government has delayed Mr. Bhandari’s removal proceedings. As the
15 Government concedes in its pleading, it had a travel document and could have deported
16 Mr. Bhandari. However, the Government failed to execute the travel document, and it
17 expired. Dkt. 8 at 7. Every day that Mr. Bhandari sits in custody is another day that he
18 could have been free at home if the Government had only acted on that document in
19 time. This factor therefore unquestionably weighs heavily in Mr. Bhandari’s favor.

20 Sixth, there is already a final order of removal.

21 Since the first five factors weigh in favor of a bond hearing, if this Court
22 concludes that it cannot release Mr. Bhandari under 8 U.S.C. § 1231, it should order a
23 bond hearing within 14 days.

24 Ultimately, it would seem that the Government’s response is more an attempt to
25 muddy the waters and inject an unnecessary legal issue into this matter. It does not
26 matter whether this action is governed by Section 1225 or 1231 or even some entirely

1 different statute. The fact is that courts in this district and throughout the nation have
2 recognized that individuals like Mr. Bhandari, subject to a final order of removal, who
3 nonetheless have been detained for over a year with no end in sight, are human beings
4 and entitled to some form of due process. If not outright release, Mr. Bhandari should
5 be granted a bond hearing.

6 **C. Additional precautions regarding deportation to a third country are**
7 **warranted.**

8 The Government argues that Mr. Bhandari's concerns regarding additional
9 process before he can be sent to a third country are unwarranted because ICE has no
10 intention to send him anywhere other than Nepal and that deportation to a third country
11 is not unconstitutional. Dkt. 8 at 12–14. While Mr. Bhandari appreciates the
12 representation that the Government will not attempt to send him anywhere other than
13 Nepal, he can be forgiven for not taking the Government at its word. As demonstrated
14 in his petition, the Government has sent people from multiple different countries to
15 multiple third countries without necessarily affording them due process, and those
16 individuals suffered mistreatment in the countries to which they were sent. Dkt. 5 at 8–
17 14. This is not speculative. It is very real and happening to many people. An order
18 prohibiting the Government from sending Mr. Bhandari to a third country would be
19 appropriate and, if the Government is correct that it has no intention on sending him to
20 a third country, would not be an imposition on the Government.

21 The Respondents claim Mr. Bhandari's arguments that third-country removal is
22 punitive are too speculative and are therefore disfavored. Dkt. 8 at 13–14. However,
23 they are not speculative as Mr. Bhandari demonstrated countless abuses and ills that
24 have befallen those deported to countries to which they have no connection, and which
25 do not treat detainees humanely. *See* Dkt. 5 at 8–14. That is not speculative. It is real
26 and must be avoided.

1 The Respondents further argue that insufficient facts have been alleged to meet a
 2 facial or as-applied challenge, arguing Mr. Bhandari “does not allege which third
 3 country he fears removal to, what harm he personally faces, or any circumstances that
 4 would make removal punitive in his case.” Dkt. 9 at 21. However, in the petition,
 5 Mr. Bhandari alleged, in part, that “Panama⁴ and Costa Rica⁵ took in hundreds of
 6 deportees . . . and imprisoned them in hotels, a jungle camp and a detention center.”
 7 Dkt. 5 at 12. Costa Rica and Panama are two possible destinations to which the
 8 Respondents could deport Mr. Bhandari based on how they have handled other cases. If
 9 removed to these countries, Mr. Bhandari would likely be subjected to the punitive
 10 conditions outlined in the petition. There are certainly other countries to which
 11 Mr. Bhandari fears deportation. However, as the Government has not specified where it
 12 is contemplating sending him, he cannot articulate that to every specific country. To the
 13 extent the Government is correct that it has no intention of sending him to a third
 14 country, they do not have to provide such a list, but Mr. Bhandari has a reasonable
 15 concern that the Government will change course and ultimately try to send him to one
 16 of those countries without adequate notice. If the Government reneges on its
 17 commitment, without an order from the Court, Mr. Bhandari could find himself in some

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 19 ⁴ In Panama, immigrants are forced to choose between repatriation to their country of
 20 origin or detention under conditions that has “sparked backlash from human rights
 21 organizations.” Castano, Danielle, *The U.S. ’s Illegal Migrant Deportations to Panama*,
 22 Human rights Research Center (June 5, 2025), available at
<https://www.humanrightsresearch.org/post/the-u-s-s-illegal-migrant-deportations-to-panama> [<https://perma.cc/7JPL-3YXS>].

23 ⁵ According to multiple human rights organizations, migrants expelled to Costa Rica
 24 face conditions that constitute human rights violations. *Costa Rica: New report exposes*
 25 *human rights violations against migrants expelled from the U.S. and warns: “This*
 26 *cannot happen again.”*, Centro Por La Justicia y El Derecho International, (May 22,
 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>].

1 far-flung place before he ever has a chance to return to this Court. An order from this
2 Court requiring the Government to do what it has promised to do is therefore warranted.

3 Courts in this district have made findings that the current third-country removal
4 policy is punitive, and the Respondents' practice of third-country removal paired with
5 imprisonment is intended to be punitive and thus violates due process. *See Abubaka v.*
6 *Bondi, et al.*, No. CV25-01889-RSL, 2025 WL 3204369, at *7–8 (W.D. Wash. Nov. 17,
7 2025); *Nguyen*, 796 F. Supp. 3d at 732–35. In each of these cases, the district court
8 ordered respondents not to remove the petitioner to any third country where he is likely
9 to face imprisonment upon arrival. *Id.*; *see also Baltodano v. Bondi, et al.*, No. CV25-
10 1958-RSL, 2025 WL 2987766, at *20–21 (W.D. Wash. Oct. 23, 2025) (citing *Nguyen*
11 and finding “petitioner is likely to succeed on merits of his claim that he is entitled to
12 ‘legally required multistep procedures set out in 8 U.S.C. § 1231(b) and required due
13 process’ before ICE can remove him to a third country”). Mr. Bhandari only requests
14 the same protections—that he will have assurances that he will not be swooped up and
15 sent to whatever country will accept him without first having an opportunity to argue
16 against such action.

17 **D. Arbitrary re-detention is a very real possibility and must be prohibited.**

18 The Government next argues that there is no reason to restrict the Government
19 from re-detaining Mr. Bhandari if he is ordered released because the procedures in
20 place already are enough and any request would be premature. Dkt. 8 at 14–15.
21 However, as Judge Whitehead noted in a recent ruling, “[w]ithout any re-detention
22 standard, the Government could theoretically re-detain [the petitioner] after release,
23 which would render the Court’s order meaningless.” *Uprety v. Bondi*, No. CV25-
24 02443-JNW, Dkt. 15 at 8. Given that the courts have “broad discretion” in granting
25 habeas relief “as law and justice require,” it should fashion an order that ensures its
26 order cannot be thwarted as soon as it is carried out. *Hilton v. Braunskill*, 481 U.S. 770,

1 775 (1987). Mr. Bhandari is not asking for a premature ruling on future conduct.
2 Rather, he is asking for a prohibition on the direct violation of the order this Court
3 would issue releasing him, absent some intervening change in circumstances. That is
4 entirely reasonable and appropriate. Arbitrary re-detention is a very real possibility and
5 must be prohibited.

6 **III. CONCLUSION**

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

16 DATED this 26th day of January 2026.

17 Respectfully submitted,

18
19 *s/ Andrew D. Kennedy*
20 Assistant Federal Public Defender
21 Attorney for Niraj Bhandari
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