

THE HONORABLE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAVEIN JUMEL COKE,

Petitioner,

vs.

PAMELA BONDI, Attorney General of
the United States; KRISTI NOEM,
Secretary, United States Department of
Homeland Security; LAURA
HERMOSILLO, Acting Seattle Field
Office Director, United States
Citizenship and Immigration Services;
BRUCE SCOTT, Warden of Immigration
Detention Facility; and the United States
Immigration and Customs Enforcement,

Respondents.

No. CV26-0071-MLP

REPLY

I. INTRODUCTION

Petitioner Coke has met his burden to show that he has been held for longer than the presumptively reasonable six months, *see* Gov't Return, Dkt. 13, at 10 (stating that Mr. Coke has been detained for seven months since his removal order became administratively final); *see also* Benjamin Decl., Dkt. 14 ¶¶ 8-10 (stating that Mr. Coke has been detained in ICE custody since April 23, 2024, was ordered removed but granted deferral of removal under CAT on October 23, 2024, and that the IJ's order became administratively final on June 23, 2025), and that his removal to a country that will accept him is not reasonably foreseeable. Indeed, the government admits that he may not be removed to his country of origin, Jamaica. The government provides no evidence that any third country, including Mexico, is willing to accept Mr. Coke's third

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1 country removal. The government has shown that it cannot meet its burden under
2 *Zadvydas*, and Petitioner Coke must be ordered released on bond.

3 The Court should also enjoin third-country removal without the due process
4 guarantees ordered by many other courts in this district. The government's baseless
5 threats to swiftly remove Petitioner Coke to countries from which it has not obtained
6 permission or travel documents (currently, Mexico, which also has a history of
7 disregarding CAT orders, *see infra* at 5) are traumatic and unconstitutional.

8 Finally, the Government's third-country removal program is unconstitutionally
9 punitive and it should be permanently enjoined. *See Baltodano v. Bondi*, No. CV25-
10 1958-RSL, 2025 WL 3484769, at *10 (W.D. Wash. Dec. 4, 2025) ("[T] his Court holds
11 that the Government's practice of third-country removal paired with imprisonment is
12 intended to be punitive and thus violates due process under *Wong Wing* [*v. United*
13 *States*], 163 U.S. 228[,] 236–38 (1896), and *Zadvydas*, 533 U.S. [] at 693–94. . . .").

14 The Court should grant Petitioner's habeas petition on all grounds.

15 **II. THE COURT SHOULD GRANT PETITIONER'S HABEAS PETITION**
16 **BY ORDERING HIM RELEASED ON BOND.**

17 Respondents offer almost no argument as to why Petitioner may continue to be
18 detained even though they concede he may not be removed to Jamaica and no third
19 country has agreed to accept him. Gov't Return, Dkt. 13 at 12. Mr. Coke has provided
20 "good reason to believe that there is no significant likelihood of removal in the
21 reasonably foreseeable future," *Zavydas*, 533 U.S. at 701, because he cannot be
22 removed to Jamaica, he does not have citizenship or significant ties to any other
23 country, and there is no evidence before this Court that any other country is willing to
24 accept Mr. Coke's third country removal under 8 U.S.C. §1231(b)(2)(E). "Courts
25 routinely find that noncitizens under such circumstances have met their initial burden
26

under *Zadvydas*.” *Elshourbagy v. Bondi*, No. CV25-2432-TL, 2025 WL 3718993, at *4 (W.D. Wash. Dec. 23, 2025).¹

“[E]xpediently seek[ing] to remove” a petitioner, Dkt. 13 at 9, does not make it foreseeable under *Zadvydas*. See, e.g., *Tran v. Noem*, No. 1:25-cv-01523-TLN-CKD, 2025 WL 3268491, at *3 (E.D. Cal. Nov. 24, 2025) (assertion that government was “actively working on obtaining a travel document for Petitioner to Vietnam” was insufficient to show removal was reasonably foreseeable); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *5 (E.D. Cal. July 16, 2025) (“Respondents’ intent to complete a travel document request for Petitioner does not make it significantly likely he will be removed in the foreseeable future”); *Hambarsonpour v. Bondi*, No. CV25-1802-RSM, 2025 WL 3251155, at *2–*3 (W.D. Wash. Nov. 21, 2025) (holding that a government argument that it was “actively working to effectuate his removal to France” was insufficient to render petitioner’s removal reasonably foreseeable in the absence of travel documents).

Under *Zadvydas*, the Supreme Court has made clear that the purpose of detention under the statute must be tied to the goal of removing the person from the United States, and if the detention is prolonged beyond the time necessary to complete that goal, the

¹ Citing *Shadalo v. Mattos*, No. C25-2076, 2025 WL 3568234, at *6 (D. Nev. Dec. 14, 2025); *Vishal v. Chestnut*, No. C25-1469, 2025 WL 3511815, at *3 (E.D. Cal. Dec. 8, 2025); *Gomez v. Mattos*, No. C25-975, 2025 WL 3101994, at *5 (D. Nev. Nov. 6, 2025); *Hmung v. Bondi*, No. C-25-1303, 2025 WL 3657221, at *3 (W.D. Okla. Dec. 9, 2025), report and recommendation adopted, 2025 WL 3670499 (Dec. 17, 2025); *Sukhyani v. Bondi et al.*, Case No. C-25-1243 (W.D. Okla. Nov. 18, 2025), report and recommendation adopted, 2025 WL 3283274 (Nov. 25, 2025); *Trejo v. Warden of ERO El Paso East Mont.*, No. C25-401, 2025 WL 2992187, at *5 (W.D. Tex. Oct. 24, 2025); *Misirbekov v. Venegas*, No. C25-168, 2025 WL 2450991, *1 (S.D. Tex. Aug. 15, 2025); see also *Nadarajah v. Gonzales*, 443 F.3d 1069, 1081 (9th Cir. 2006) (recognizing that a grant of withholding of removal under the Convention Against Torture to a noncitizen “is a powerful indicator of the improbability of his foreseeable removal, by any objective measure”).

1 Due Process Clause places further limits on the detention. *Zadvydas*, 533 U.S. at 699.
2 *Zadvydas* determined that detention becomes “indefinite” when there is “good reason to
3 believe that there is no significant likelihood of removal in the reasonably foreseeable
4 future.” *Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008) (quoting *Zadvydas*, 533
5 U.S. at 701).

6 Even though the burden has shifted to Respondents to “respond with evidence
7 sufficient to rebut” Petitioner’s showing that there is no significant likelihood of
8 removal in the reasonably foreseeable future, *Zadvydas*, 533 U.S. at 701, they offer
9 little in response. The government has only presented a “Notice of Removal” given to
10 Mr. Coke *after* he had been detained for six months and filed a habeas petition that
11 says: “This letter is to inform you that U.S. Immigration and Customs Enforcement
12 (ICE) intends to remove you to Mexico.” Dkt. 15, Ex. 15-6. The government provides
13 no evidence that travel documents have been obtained for Mexico, the country that they
14 say they intend to remove Mr. Coke to. Respondents offer only a general claim that a
15 travel document is not required for individuals to be removed by land to Mexico, Gov’t
16 Return, Dkt. 13, at 12 (citing Benjamin Decl., Dkt. 14, ¶ 10), but this is the exact
17 circumstance for which Petitioner has put forward evidence that Mexico does not
18 accept anyone brought by land to the Mexican border who is unwilling to cross into
19 Mexico. *See* Dkt. 10, Exs. 10-2–10-6. Respondents ignore this evidence completely in
20 their combined Return and Opposition.

21 The Respondents cite *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008),
22 for the proposition that “[d]etention becomes indefinite in situations where the country
23 of removal refuses to accept the noncitizen or if removal is legally barred.” Dkt. 13 at
24 13. They then blithely assert, “There is no reason to believe that is the situation here,”
25 *id.*, without seeming to recognize that Coke’s situation with respect to Mexico and
26 Jamaica are exactly those discussed in *Diouf*: Mexico will not accept him because he is

1 unwilling to go there, and the United States is legally barred from removing him to
2 Jamaica. Of course, these are not the only exceptions to foreseeability, but *Diouf*
3 happens to mention two that are directly applicable to Mr. Coke.

4 General statements of intent to remove Petitioner to Mexico or any other country
5 fail to prove that his removal is reasonably foreseeable. “The fact that Respondents
6 intend to complete a travel document request for Petitioner does not make it
7 significantly likely he will be removed in the foreseeable future.” *Hoac v. Becerra*, No.
8 CV25-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025). In a similar
9 Convention Against Torture (CAT) case in which a petitioner was granted withholding
10 of removal to Colombia, the government sought permission from the consulates of
11 Peru, Argentina, Chile, and Mexico to remove him to those countries, and was denied
12 three times and received no answer from Mexico. *See Aguila v. Rivas*, No. CV25-1662-
13 PHX-DLR (ESW), Dkt. 51 at 4 (D. Ariz. Oct. 30, 2025) (“[T]here is no evidence in the
14 record that removal is likely to occur at all, much less in the reasonably foreseeable
15 future.”). Here, Respondents have provided *no* evidence that they have reached out to
16 any third countries and *no* evidence that any third country has agreed to accept Mr.
17 Coke, including Mexico.

18 Furthermore, Petitioner has a reasonable fear of being sent to a country that may
19 forward him to the country he has obtained CAT protections against (a practice known
20 as *refoulement* under international law). As Petitioner describes *infra* at 6-8, the law
21 allows him to be able to argue his fear before an immigration judge (not, as the
22 government is doing now, shifting the burden to him to make a claim of fear in
23 response to a notice of removal). Most alarming to Mr. Coke’s situation, Supreme
24 Court justices have described examples of people being sent on to their country of
25 origin by Mexico despite CAT protections. *See DHS v. D.V.D.*, 145 S. Ct. 2153, 2154
26 (2025) (Sotomayor, J., dissenting) (describing deportation without notice to Mexico of

1 a man granted CAT deferral against removal to Guatemala; Mexico promptly sent him
2 on to Guatemala without regard to the CAT decision of a United States immigration
3 judge). Thus, even if the government succeeds in coercing a third country such as
4 Mexico to accept Mr. Coke, the removal may not proceed if Mr. Coke has grounds to
5 object and he is able to exercise his legal right to do so.

6 Mr. Coke should be released on bond under reasonable conditions of
7 supervision. *See Kamyab v. Bondi*, No. CV25-389-RSL, 2025 WL 2917522, at *5
8 (W.D. Wash. Oct. 14, 2025) (citing 8 U.S.C. § 241.4(j), 241.5, 241.13(h)).

9 **III. PETITIONER IS ENTITLED TO AN INJUNCTION BARRING**
10 **DEPORTATION TO A THIRD COUNTRY WITHOUT NOTICE AND A**
11 **MEANINGFUL OPPORTUNITY TO BE HEARD.**

12 Courts in this district have already held that ICE's current third country removal
13 policy "contravenes Ninth Circuit law," *Baltodano*, 2025 WL 3484769, at *6 (quoting
14 *Nguyen v. Scott*, 796 F.Supp.3d 703, 728 (W.D. Wash. 2025)). The government claims
15 that DHS policy provides Mr. Coke's requested relief—preventing his removal to a
16 third country without notice and a meaningful opportunity to respond—and that "ICE
17 has already demonstrated that they followed these procedures in Petitioner's case by
18 providing him this notice and opportunity." Gov't Return, Dkt. 13, at 13. The
19 government argues that Petitioner "identifies no country, no policy, and no factual
20 circumstance demonstrating that third-country removal would operate as punishment
21 rather than lawful execution of a removal order." *Id.* But the government ignores that
22 since the filing of Mr. Coke's habeas petition, the government filed a Notice of Intent to
23 Remove (Dkt. 9) and that Mr. Coke filed an Emergency Motion to Prevent Transfer
24 (Dkt. 10). This was based on the facts that Respondents sought to remove Mr. Coke to
25 Mexico without a travel document, without any evidence that Mexico had agreed to
26 accept him, and without actual meaningful notice of third-country removal and an
opportunity to respond. *See* Dkt. 10, at 1-4. The government's actions were the

1 definition of “last minute” and deprived Mr. Coke of any meaningful opportunity to
2 apply for fear-based protection from removal. *Id.* at 4 (citing *Andriasian v. INS*, 180
3 F.3d 1033, 1041 (9th Cir. 1999)).

4 In addition, exactly as in *Elshourbagy*, Respondents have shifted the burden of
5 claiming fear to Petitioner, meaning he has already been injured by the due process
6 deficiencies in the ICE policy. Benjamin Decl., Dkt. 14 at ¶ 11 (“Petitioner declined to
7 sign but did not express any fear of being removed to Mexico.”); see *Elshourbagy*,
8 2025 WL 3718993, at *6.

9 There is grave controversy concerning the process that is required before Mr.
10 Coke can be removed to a country where he may not have status allowing him to work
11 and may not have domestic legal protections against being forwarded to Jamaica, where
12 a United States immigration judge held that he faced a more than 50% chance of being
13 tortured or killed. See *Al-Safer v. I.N.S.*, 268 F.3d 1143, 1147 (9th Cir. 2001)
14 (withholding of removal under the CAT requires noncitizen to prove “it is more likely
15 than not that he . . . would be tortured if removed to the proposed country of removal.”).
16 There exist many documented instances in which the government has failed to adhere to
17 the due-process requirements of Ninth Circuit law. See, e.g., *D.V.D.*, 145 S. Ct. at 2154
18 (Sotomayor, J., dissenting); see also *id.* at 2155–58; Dkt. 1 at 12-16.

19 Specifically, courts in the Ninth Circuit have held that the ICE policy of shifting
20 the burden to petitioners to move to reopen removal proceedings themselves any time
21 ICE threatens them with removal to a third-country is not “giv[ing] sufficient notice of
22 a country of deportation that, given his capacities and circumstances, he would have a
23 reasonable opportunity to raise and pursue his claim for withholding of deportation.”
24 *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019) (qtd. in *Nguyen v.*
25 *Scott*, 796 F.Supp.3d at 727).
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Following *Aden*, the *Nguyen* and *Baltodano* courts, among others, have held that “[g]iving petitioner an opportunity to file a motion to reopen [his removal proceedings] . . . is not an adequate substitute for the process that is due process in these circumstances.” *Baltodano*, 2025 WL 3484769, at *6 (quoting *Aden*, 409 F. Supp. 3d 998 at 1009–11). “Rather, a petitioner must be able to pursue his claim for withholding of deportation in reopened removal proceedings before an immigration judge.” *Id.*; see also *Y.T.D. v. Andrews*, No. 1:25-CV-01100 JLT SKO, 2025 WL 2675760, at *11 (E.D. Cal. Sept. 18, 2025); *Abubaka v. Bondi*, No. CV25-1889-RSL, 2025 WL 3204369, at *6 (W.D. Wash. Nov. 17, 2025); *A.A.M. v. Tonya Andrews, et al.*, No. 1:25-cv-01514-DC-DMC (HC), 2025 WL 3485219, at *8 (E.D. Cal. Dec. 4, 2025).

Because there is a large gap between the process accorded by the July 9 ICE memo and the law, including as reflected in Respondents’ claim that the Mr. Coke has not *independently* raised fear in response to a notice of removal to Mexico, Mr. Coke also has already been injured by the ICE policy. See Dkt. 13 at 13, 16; Benjamin Decl., Dkt. 14 at ¶ 11, 13). In addition, Respondents claim additional actions pursuant to the memo (and attendant deprivations of process) are forthcoming. Mr. Coke should be granted relief on his procedural due process claim.

IV. PETITIONER IS NOT BARRED FROM RELIEF BECAUSE HE MAY BE A MEMBER OF THE *D.V.D.* CLASS

Respondents also argue that this Court may not issue the relief sought by Mr. Coke on his due process claim because he is a member of the plaintiff class bound by the Supreme Court’s stay in *DHS v. D.V.D.*, 145 S. Ct. 2153 (2025). Dkt. 13 at 14–15. They further argue that he *must* seek any relief through the class action. *Id.* This argument has been rejected by many courts, not least because the second argument contradicts the argument the government made to the Supreme Court, and the likely basis of its stay order.

As the court explained in *Nguyen*, the Supreme Court in *D.V.D.* provided no reasoning for its entry of the stay and whether it came to that determination based on the merits or the procedural posture of the case. *See Nguyen*, 796 F.Supp.3d at 731–32 (citing *Merrill v. Milligan*, __ U.S. __, 142 S. Ct. 879, 879 (2022) (Kavanaugh, J., concurring) (“The Court’s stay order is not a decision on the merits.”)); *see also Cruz-Medina v. Noem*, -- F.Supp.3d --, 2025 WL 2841488 (D. Md. Oct. 7, 2025) (rejecting government’s argument that the stay order in *D.V.D.* means that petitioner cannot prevail, stating, “[a]ll this Court can do is apply existing precedent and due process standards, and, under those standards, the Court can discern no rational basis for stripping Mr. Cruz Medina of the opportunity to appear before an immigration judge”); *Santamaria Orellana v. Maker*, No. CV25-1788-TDC, 2025 WL 2841886, at *11 (D. Md. Oct. 7, 2025) (citing to *Nguyen*, 796 F.Supp.3d at 732) (“This Court agrees that based on the presently available guidance from the Supreme Court, there is an insufficient basis upon which to reach a conclusion on which aspects of *D.V.D.* the Supreme Court has rejected, whether they relate to the class certification, the due process claim, or otherwise.”).

The *D.V.D.* litigation concerned an earlier version of the ICE guidance, and a primary argument made by the government to the Supreme Court was an objection based on the nationwide scale of the injunction rather than its merits. *See Gov’t Application for a Stay, D.H.S. v. D.V.D.*, No. 24A1153 (May 27, 2025), at 19, https://www.supremecourt.gov/DocketPDF/24/24A1153/359703/20250527153743499_DHS_v._DVD_et_al-app_stay.pdf [<https://perma.cc/VNR5-SS7D>] (“First, under 8 U.S.C. 1252(f)(1), lower federal courts lack jurisdiction to issue *classwide injunctions* that restrain the operation of third-country removals pursuant to 8 U.S.C. 1231(b).”) (emphasis added). In other words, it is likely that the unreasoned Supreme Court order was not forbidding injunctive relief to Mr. Coke because he is one of many people who

1 has no right to relief, but rather forbidding *mass* relief because Mr. Coke and others
 2 should have proceeded individually in cases just like this one. *See Nguyen*, 796
 3 F.Supp.3d at 730–31. *See also Abubaka*, 2025 WL 3204369, at *2; *Sagastizado v.*
 4 *Noem*, No. CV25-00104, – F.3d --, 2025 WL 2957002, *13 (S.D. Tex. Oct. 2, 2025)
 5 (“Notably, the class-wide nature of the *D.V.D.* injunction alone could have justified the
 6 stay, and that justification would not undermine the merits of an individual claim for
 7 relief.”).

8 The *D.V.D.* class action makes claims about a different policy, seeks distinct
 9 relief, and may have been stayed specifically because the Supreme Court prefers cases
 10 to proceed individually rather than pursuant to nationwide injunctions. There is no
 11 reason to require Mr. Coke to seek relief in that litigation rather than here.

12 **V. PETITIONER IS ENTITLED TO AN INJUNCTION BARRING**
 13 **DEPORTATION TO A THIRD COUNTRY PURSUANT TO**
 14 **RESPONDENTS’ PUNITIVE POLICY.**

15 Finally, the courts in *Abubaka*, *Nguyen*, *Hambarsonpour*, and *Baltodano* have all
 16 held that the government’s practice of third-country removal is punitive as a matter of
 17 policy and thus violates due process under *Wong Wing v. United States*, 163 U.S. 228,
 18 236–38 (1896), and *Zadvydas*, 533 U.S. at 693–94. *Abubaka*, 2025 WL 3204369, at *8;
 19 *Nguyen*, 796 F.Supp.3d at 739; *Hambarsonpour*, 2025 WL 3251155, at *1, *4–5;
 20 *Baltodano*, 2025 WL 3484769, at *10.

21 These courts have particularly taken note of the descriptions of punitive
 22 treatment that deviate from the government’s promises in individual cases before the
 23 court. *See, e.g., Rivera-Trigueros v. Bondi*, No. 24-3764, 2025 WL 1189561, at *2 (9th
 24 Cir. Apr. 24, 2025) (finding individual had shown that, if detained in El Salvador, he
 25 would “confront a prison environment in which torture is pervasive” and that “the
 26 squalid conditions in Salvadoran prisons—which include extreme overcrowding,
 inadequate sanitation, and a lack of food—are deliberately inflicted by government

officials as a form of punishment.”) (citation omitted); *Abrego Garcia v. Noem*, 777 F. Supp. 3d 501, 509 (D. Md. 2025) (“ICE forcibly transported Abrego Garcia to the Terrorism Confinement Center (‘CECOT’) in El Salvador, a notorious supermax prison known for widespread human rights violations.”); *DHS v. D.V.D.*, 145 S. Ct. at 2154–55 (2025) (Sotomayor, J., dissenting) (describing deportation to Mexico of a gay man from Guatemala who had obtained withholding of removal to Guatemala under the Convention Against Torture; Mexico promptly forwarded him on to Guatemala, where he was forced into hiding); *D.A. v. Noem*, No. 25-CV-3135 (TSC), 2025 WL 2646888, at *1–*3) (D.D.C. Sept. 15, 2025) (describing punitive deportation to prison-like setting in Ghana). This Court should similarly recognize that ICE’s third-country deportation policy is punitive in intent and practice and therefore violates due process.

Furthermore, given that Petitioner was granted a CAT deferral based on credible evidence that “it would be more likely than not that he would be killed if returned to Jamaica” (*see* Habeas Petition, Dkt. 1, Ex. 1-1 at 8), the entire practice of using “bridge countries” to effectuate eventual return to a barred home country represents an end run around prohibitions against torture: punitive by any definition. *See* Matias Delacroix & Megan Janetsky, *Isolated in ‘Harsh Conditions:’ Deportee from US Details Legal Limbo in Panama Camp Near Darien Gap*, AP World News (Feb. 22, 2025), <https://apnews.com/article/panama-deportees-trump-hotel-darien-gap-iom-bba8c3dc33fd38efd569a5b51e481a86> [<https://perma.cc/7FL8-KNXT>] (quoting U.S. State Department’s statement on social media that the countries were “safely returning third-country nationals to their countries of origin”); *see also* *D.V.D.*, 145 S. Ct. at 2154 (Sotomayor, J., dissenting). Such an end run around prohibitions on torture and death could thus be accomplished without any specific punitive intent in individual decisionmakers’ minds.

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1 This Court should grant the habeas petition on the ground that the third-country
2 removal program is punitive insofar as it involves imprisonment for a civil immigration
3 issue, *see Abubaka*, 2025 WL 3204369, at *8, and as applied to Mr. Coke, is punitive
4 insofar as any third-country candidate is not bound by the United States CAT decision
5 indefinitely withholding his deportation to a country where an IJ has found “it would
6 only be a matter of time” “that [Mr. Coke] would be murdered at the hands of rival
7 gangs or the police, or that he would be incarcerated by police and tortured in prison or
8 by soldiers in prison, or by other members of government.” Ex. 1-1 at 5.

9 **VI. PETITIONER’S EMERGENCY MOTION TO PREVENT TRANSFER IS**
10 **NOT A REQUEST FOR A TRO OR A PRELIMINARY INJUNCTION;**
11 **TO THE EXTENT IT IS CHARACTERIZED AS SUCH, IT WILL BE**
12 **MOOT BY THE TIME THE PETITION IS RIPE.**

13 The government calls the emergency motion preventing transfer a “TRO,” and
14 then recites the standards for a preliminary injunction, but by the time the emergency
15 motion is ripe for decision, the petition can be decided on the merits and no further
16 temporary relief is needed. Furthermore, a request by a Petitioner to maintain the status
17 quo while a habeas petition is pending is an ordinary request in aid of the court’s
18 jurisdiction, not an extraordinary request for injunctive relief.

19 This relief was necessary given the unusual assertion by Respondents that they
20 intended to remove Mr. Coke to Mexico in 48 hours, apparently by land without any
21 travel documents, without any information that Mexico had agreed to accept Mr. Coke,
22 and without providing Mr. Coke with meaningful notice and an opportunity to be heard.

23 While the Court has provisionally granted Mr. Coke’s emergency motion (Dkt.
24 12), the Court need not decide this motion after full briefing if it decides the petition on
25 the merits first because the entire point, *see* Dkt. 10 at 1-2, was to allow the Court to
26 decide the petition while it had certain jurisdiction (i.e., before Mr. Coke was

1 transferred out of the district or country) and allow Petitioner to conduct an
2 investigation into Respondents' assertions on removal to Mexico.

3 That investigation has revealed more examples of what Mr. Coke asserted in the
4 initial motion: "Removals" via land to Mexico without travel documents are cruel
5 theater, not true removals. *See also* Arteaga Decl. Mexico will not accept anyone who,
6 like Mr. Coke, is unwilling to go there. Ex. 10-2 at ¶ 11; Ex. 10-3 at ¶¶ 4–5; Ex. 10-4 at
7 ¶ 7. The entire attempt to transport detainees to the border seems aimed more at
8 defeating habeas jurisdiction or *Zadvydas* claims than actually removing anyone. The
9 court should decline countenance such sham removals or to allow them to affect the
10 analysis of Mr. Coke's legal claims for relief.

11 **VII. CONCLUSION**

12 This Court should grant the habeas petition on all grounds.

13 DATED this 23rd day of January 2026.

14 Respectfully submitted,

15
16 s/ Elizabeth Sher
17 Assistant Federal Public Defender
18 Attorney for Javein Jumel Coke
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