

1 **Katie Hurrelbrink**
2 Federal Defenders of San Diego, Inc.
3 225 Broadway, Suite 900
4 San Diego, California 92101-5030
5 Telephone: (619) 234-8467
6 Facsimile: (619) 687-2666
7 katie_hurrelbrink@fd.org

8 Attorneys for Mr. Abdirahman



9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **MARWAN ABDULLAHI**
13 **ABDIRAHMAN,**

14 **Petitioner,**

15 **v.**

16 **KRISTI NOEM, Secretary of the**
17 **Department of Homeland Security,**
18 **PAMELA JO BONDI, Attorney General,**
19 **TODD M. LYONS, Acting Director,**
20 **Immigration and Customs Enforcement,**
JESUS ROCHA, Acting Field Office
Director, San Diego Field Office,
CHRISTOPHER LAROSE, Warden at
Otay Mesa Detention Center,

21 **Respondents.**

22 **CIVIL CASE NO.: '26CV0177 RBM AHG**

23 **Petition for Writ**
24 **of**
25 **Habeas Corpus**

26 **[28 U.S.C. § 2241]**

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1 INTRODUCTION

2 Marwan Abdirahman received withholding of removal to his native country
3 of Somalia on May 28, 2025. Over 7 months later, ICE has proved unable to
4 remove him to any other country. He has seen no indication that ICE has even
5 identified a country that could possibly take him, let alone submitted a travel
6 document request. Mr. Abdirahman must therefore be released, because “there is
7 no significant likelihood of removal in the reasonably foreseeable future.”
8 *Zadvydas v. Davis*, 533 U.S. 678 (2001). Furthermore, in the unlikely event that
9 ICE were able to remove him to a third country, ICE threatens to do so in
10 violation of the Fifth Amendment’s Due Process Clause. This Court should grant
11 this petition on both grounds.

12 STATEMENT OF FACTS

13 **I. Mr. Abdirahman got withholding of removal to Somalia over 7 months**
14 **ago.**

15 Mr. Abdirahman fled Somlia and came to the United States on July 12,
16 2023. Exh. A at ¶ 1. He turned himself in to border patrol, and he requested
17 asylum. *Id.* Border patrol initially released him and gave him a notice to appear.
18 *Id.* But without warning or explanation, on November 14, 2023, ICE took him
19 back into custody. *Id.* He would remain in custody for over two years. *Id.*

20 Mr. Abdirahman ultimately lost his asylum case, but he was granted
21 withholding of removal to Somalia on May 28, 2025. *Id.* at ¶ 3. ICE refused to
22 release him, stating that ICE would try to remove him to a third country. *Id.*

23 He heard nothing from ICE for the next three to four months. *Id.* at ¶ 4.
24 Then, a deportation officer met with Mr. Abdirahman to say that he would start
25 looking for a third country placement. *Id.* The officer met with him again a month
26 later to report that no such third country had been identified. *Id.* Mr. Abdirahman
27 asked how long it would take to find a third country and remove him, but the
28

1 officer said he didn't know. *Id.* To date, ICE still has not told Mr. Abdirahman of
2 any third country that might take him. *Id.*

3 **II. The government is carrying out deportations to third countries without**
4 **providing sufficient notice and opportunity to be heard.**

5 There is therefore no evidence that ICE can currently remove Mr.
6 Abdirahman to a third country in the reasonably foreseeable future. But ICE
7 would do so if it could, Exh. A at ¶ 4, and should something unexpectedly change
8 to make that feasible, he is in grave danger of removal without due process.

9 The Trump administration reportedly has negotiated with at least 58
10 countries to accept deportees from other nations. Edward Wong et al, *Inside the*
11 *Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25,
12 2025. On June 25, 2025, the New York Times reported that seven countries—
13 Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—
14 had agreed to accept deportees who are not their own citizens. *Id.* Since then, ICE
15 has carried out highly publicized third country deportations to South Sudan and
16 Eswatini.

17 The Administration has reportedly negotiated with countries to have many
18 of these deportees imprisoned in prisons, camps, or other facilities. The
19 government paid El Salvador about \$5 million to imprison more than 200
20 deported Venezuelans in a maximum-security prison notorious for gross human
21 rights abuses, known as CECOT. *See id.* In February, Panama and Costa Rica
22 took in hundreds of deportees from countries in Africa and Central Asia and
23 imprisoned them in hotels, a jungle camp, and a detention center. *Id.*; Vanessa
24 Buschschluter, *Costa Rican court orders release of migrants deported from U.S.*,
25 BBC (Jun. 25, 2025). On July 4, 2025, ICE deported eight men, including one
26 pre-1995 Vietnamese refugee, to South Sudan. *See Wong, supra.* On July 15, ICE
27 deported five men to the tiny African nation of Eswatini, including one man from
28 Vietnam, where they are reportedly being held in solitary confinement. Gerald

1 Imray, *3 Deported by US held in African Prison Despite Completing Sentences,*
2 *Lawyers Say*, PBS (Sept. 2, 2025). Many of these countries are known for human
3 rights abuses or instability. For instance, conditions in South Sudan are so
4 extreme that the U.S. State Department website warns Americans not to travel
5 there, and if they do, to prepare their will, make funeral arrangements, and appoint
6 a hostage-taker negotiator first. *See Wong, supra.*

7 On June 23 and July 3, 2025, the Supreme Court issued a stay of a national
8 class-wide preliminary injunction issued in *D.V.D. v. U.S. Department of*
9 *Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968, at *1, 3 (D.
10 Mass. Apr. 18, 2025), which required ICE to follow statutory and constitutional
11 requirements before removing an individual to a third country. *U.S. Dep't of*
12 *Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (mem.); *id.*, No. 24A1153, 2025
13 WL 1832186 (U.S. July 3, 2025).¹ On July 9, 2025, ICE rescinded previous
14 guidance meant to give immigrants a “‘meaningful opportunity’ to assert claims
15 for protection under the Convention Against Torture (CAT) before initiating
16 removal to a third country” like the ones just described. Exh. B.

17 Under the new guidance, ICE may remove any immigrant to a third country
18 “without the need for further procedures,” as long as—in the view of the State
19 Department—the United States has received “credible” “assurances” from that
20 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails
21

22 _____
23 ¹ Though the Supreme Court’s order was unreasoned, the dissent noted that the
24 government had sought a stay based on procedural arguments applicable only to
25 class actions. *Dep’t of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025)
26 (Sotomayor, J., dissenting). Thus, “even if the Government [was] correct that
27 classwide relief was impermissible” in *D.V.D.*, Respondents still “remain[]
28 obligated to comply with orders enjoining [their] conduct with respect to individual
plaintiffs” like Mr. Abdirahman. *Id.* Thus, the Supreme Court’s decision does not
override courts’ authority to grant individual injunctive relief. *See Nguyen v. Scott*,
No. 2:25-CV-01398, 2025 WL 2419288, at *20–23 (W.D. Wash. Aug. 21, 2025).

1 to credibly promise not to persecute or torture releasees, ICE may still remove
2 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours'
3 notice. But “[i]n exigent circumstances,” a removal may take place in as little as
4 six hours, “as long as the alien is provided reasonably means and opportunity to
5 speak with an attorney prior to the removal.” *Id.*

6 Upon serving notice, ICE “will not affirmatively ask whether the alien is
7 afraid of being removed to the country of removal.” *Id.* (emphasis original). If the
8 noncitizen “does not affirmatively state a fear of persecution or torture if removed
9 to the country of removal listed on the Notice of Removal within 24 hours, [ICE]
10 may proceed with removal to the country identified on the notice.” *Id.* at 2. If the
11 noncitizen “does affirmatively state a fear if removed to the country of removal”
12 then ICE will refer the case to U.S. Citizenship and Immigration Services
13 (“USCIS”) for a screening for eligibility for withholding of removal and
14 protection under the Convention Against Torture (“CAT”). *Id.* at 2. “USCIS will
15 generally screen within 24 hours.” *Id.* If USCIS determines that the noncitizen
16 does not meet the standard, the individual will be removed. *Id.* If USCIS
17 determines that the noncitizen has met the standard, then the policy directs ICE to
18 either move to reopen removal proceedings “for the sole purpose of determining
19 eligibility for [withholding of removal protection] and CAT” or designate another
20 country for removal. *Id.*

21 CLAIMS FOR RELIEF

22 This Court should grant this petition and order Mr. Abdirahman’s
23 immediate release. *Zadvydas v. Davis* holds that immigration statutes do not
24 authorize the government to detain immigrants like Mr. Abdirahman, for whom
25 there is “no significant likelihood of removal in the reasonably foreseeable
26 future.” 533 U.S. 678, 701 (2001). And due process requires ICE to provide
27 notice and an opportunity to be heard before any removal to a third country.
28

1 **I. Count 1: Mr. Abdirahman’s detention violates *Zadvydas* and 8 U.S.C.**
2 **§ 1231.**

3 **A. Legal background**

4 Mr. Abdirahman’s indefinite detention violates the statute authorizing
5 detention, 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the
6 Supreme Court considered a problem affecting people like Mr. Abdirahman.
7 Federal law requires ICE to detain an immigrant during the “removal period,”
8 which typically spans the first 90 days after the immigrant is ordered removed. 8
9 U.S.C. § 1231(a)(1)-(2). After that 90-day removal period expires, detention
10 becomes discretionary—ICE may detain the migrant while continuing to try to
11 remove them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to
12 excessive detention, as removal happens within days or weeks. But some
13 detainees cannot be removed quickly. Perhaps their removal “simply require[s]
14 more time for processing,” or they are “ordered removed to countries with whom
15 the United States does not have a repatriation agreement,” or their countries
16 “refuse to take them,” or they are “effectively ‘stateless’ because of their race
17 and/or place of birth.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir.
18 2001). In these and other circumstances, detained immigrants can find themselves
19 trapped in detention for months, years, decades, or even the rest of their lives.

20 If federal law were understood to allow for “indefinite, perhaps permanent,
21 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at
22 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by
23 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

24 As an initial matter, *Zadvydas* held that detention is “presumptively
25 reasonable” for at least six months. *Id.* at 701. This acts as a kind of grace period
26 for effectuating removals.

27 Following the six-month grace period, courts must use a burden-shifting
28 framework to decide whether detention remains authorized. First, the petitioner

1 must make a prima facie case for relief: He must prove that there is “good reason
2 to believe that there is no significant likelihood of removal in the reasonably
3 foreseeable future.” *Id.*

4 If he does so, the burden shifts to “the Government [to] respond with
5 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of
6 proof rests with the government: The government must prove that there is a
7 “significant likelihood of removal in the reasonably foreseeable future,” or the
8 immigrant must be released. *Id.*

9
10 **A. The six-month grace period expired in November 2025.**

11 As an initial matter, the six-month grace period has long since ended. The
12 *Zadvydas* grace period lasts for “*six months* after a final order of removal—that is,
13 *three months* after the statutory removal period has ended.” *Kim Ho Ma v.*
14 *Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Abdirahman was
15 ordered removed on May 28, 2025. Exh. A at ¶ 3. Accordingly, his 90-day
16 removal period began then. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period
17 thus expired six months after the removal period began, in November 2025. The
18 threshold requirement is therefore met.

19 **B. There is good reason to believe that there is no significant
20 likelihood of Mr. Abdirahman removal in the reasonably
21 foreseeable future.**

22 Because the six-month grace period has passed, this Court must evaluate
23 Mr. Abdirahman’s *Zadvydas* claim using the burden-shifting framework. At the
24 first stage of the framework, there must be “good reason to believe that there is no
25 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
26 533 U.S. at 701. This standard can be broken down into three parts.

27 “**Good reason to believe.**” The “good reason to believe” standard is a
28 relatively forgiving one. “A petitioner need not establish that there exists no

1 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
2 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
3 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
4 foreseeable, significant likelihood of removal or show that his detention is
5 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
6 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
7 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
8 Petitioners need only give a “good reason”—not prove anything to a certainty.

9 **“No significant likelihood of removal.”** This component focuses on
10 whether Mr. Abdirahman will likely be removed: Continued detention is
11 permissible only if it is “significant[ly] like[ly]” that ICE will be able to remove
12 him. *Zadvydass*, 533 U.S. at 701. This inquiry targets “not only the *existence* of
13 untapped possibilities, but also [the] probability of *success* in such possibilities.”
14 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis
15 added). In other words, even if “there remains *some* possibility of removal,” a
16 petitioner can still meet its burden if there is good reason to believe that
17 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
18 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

19 **“In the reasonably foreseeable future.”** This component of the test
20 focuses on when Mr. Abdirahman will likely be removed: Continued detention is
21 permissible only if removal is likely to happen “in the reasonably foreseeable
22 future.” *Zadvydass*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
23 removal efforts. If the Court has “no idea of when it might reasonably expect
24 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
25 is likely to occur—or even that it might occur—in the reasonably foreseeable
26 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
27 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
28 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d

1 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr.
2 Abdirahman “would *eventually* receive” a travel document, he can still meet his
3 burden by giving good reason to anticipate sufficiently lengthy delays. *Younes v.*
4 *Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

5 Mr. Abdirahman readily satisfies the above standards for two reasons. *First*,
6 ICE has not been able to remove him for the last 7 months. Indeed, in all that time,
7 ICE has not identified a single third country that might plausibly take him. Exh. A
8 at ¶ 4. That track record strongly suggests that ICE will not be able to remove him
9 in the reasonably foreseeable future.

10 *Second*, there is an obvious explanation for ICE’s inability to remove him:
11 The IJ’s order prohibits Mr. Abdirahman’s removal to his home country of Somlia,
12 “which is the only country to which he has a claim to citizenship or legal
13 immigration status.” *Villanueva*, 2025 WL 2774610, at *10. “This substantially
14 increases the difficulty of removing him.” *Munoz-Saucedo*, 789 F. Supp. 3d at 398.

15 That’s because “alternative-country removal is rare.” *Johnson v. Guzman-*
16 *Chavez*, 594 U.S. 523, 537 (2021). Between 2020 and 2023, data apparently show
17 that “ICE removed . . . only *five* non-citizens granted withholding or CAT relief to
18 alternative countries.” *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398 (D.N.J.
19 2025) (emphasis original). In fiscal year 2017, there were at most 21 people of the
20 thousands with withholding of removal deported to *any* country; that number
21 includes dual citizens who only received withholding from one of their two other
22 countries of origin. See American Immigration Council & National Immigrant
23 Justice Center, *The Difference Between Asylum and Withholding of Removal*, 7
24 (Oct. 2020)² (cited in *Guzman-Chavez*, 594 U.S. at 537). That means that “less than
25 two percent of those granted withholding of removal were deported to a third
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27 ²Available at [https://www.americanimmigrationcouncil.org/wp-](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-removal.pdf)
28 [content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-r](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-removal.pdf)
[emoval.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-removal.pdf)

1 country.” *Puertas-Mendoza*, 2025 WL 3142089 at *3 (citing American
2 Immigration Council & National Immigrant Justice Center, *supra*).

3 “[T]hat is not simply a matter of United States policy—foreign governments
4 ‘routinely deny’ requests to receive people who lack a connection to the would-be
5 receiving country.” *Puertas-Mendoza*, 2025 WL 3142089 at *3. “The reason so few
6 people are deported to third countries is because,” while “customary international
7 law holds that a country has a duty to accept the return of its nationals,” usually,
8 “countries have no incentive to accept non-citizens.” American Immigration
9 Council & National Immigrant Justice Center, *supra*, at 7.

10 Because third country removal is exceedingly rare, and ICE has not been able
11 to remove Mr. Abdirahman to a third country for over 7 months, Mr. Abdirahman
12 has met his initial burden. Thus, unless the government can prove a “significant
13 likelihood of removal in the reasonably foreseeable future,” Mr. Abdirahman must
14 be released. *Zadvydas*, 533 U.S. at 701.

15 **II. Count 2: ICE may not remove Mr. Abdirahman to a third country**
16 **without adequate notice and an opportunity to be heard.**

17 There is therefore no current likelihood that Mr. Abdirahman will be
18 removed to a third country. But ICE would do so if it could, Exh. A at ¶ 4, and in
19 this rapidly evolving removal landscape, something unforeseen could suddenly
20 change to make that feasible. ICE’s “credible threat of enforcement” of this third-
21 country removal plan is sufficient to make this claim justiciable, even ICE does not
22 have any current feasible plan to remove Mr. Abdirahman to a third country. *See*
23 *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 156–57, 161 (2014) (finding
24 standing, even though the politician seeking enforcement of an unconstitutional law
25 was no longer running for office). And if ICE did suddenly prove able to remove
26 Mr. Abdirahman to a third country, it would do so under a policy that violates the
27 Fifth Amendment, the Convention Against Torture, and implementing regulations.

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A. Legal background

U.S. law enshrines protections against dangerous and life-threatening removal decisions. By statute, the government is prohibited from removing an immigrant to any third country where they may be persecuted or tortured, a form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The government “may not remove [a noncitizen] to a country if the Attorney General decides that the [noncitizen’s] life or freedom would be threatened in that country because of the [noncitizen’s] race, religion, nationality, membership in a particular social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

Similarly, Congress codified protections enshrined in the CAT prohibiting the government from removing a person to a country where they would be tortured. *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

To comport with the requirements of due process, the government must provide notice of the third country removal and an opportunity to respond. Due process requires “written notice of the country being designated” and “the statutory basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

The government must also “ask the noncitizen whether he or she fears persecution or harm upon removal to the designated country and memorialize in

1 writing the noncitizen’s response. This requirement ensures DHS will obtain the
2 necessary information from the noncitizen to comply with section 1231(b)(3) and
3 avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at 1019. “Failing to
4 notify individuals who are subject to deportation that they have the right to apply
5 for asylum in the United States and for withholding of deportation to the country to
6 which they will be deported violates both INS regulations and the constitutional
7 right to due process.” *Andriasian*, 180 F.3d at 1041.

8 If the noncitizen claims fear, measures must be taken to ensure that the
9 noncitizen can seek asylum, withholding, and relief under CAT before an
10 immigration judge in reopened removal proceedings. The amount and type of
11 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
12 circumstances, he would have a reasonable opportunity to raise and pursue his
13 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
14 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
15 F.3d 405, 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring the
16 government to move to reopen the noncitizen’s immigration proceedings if the
17 individual demonstrates “reasonable fear” and to provide “a meaningful
18 opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening
19 of their immigration proceedings” if the noncitizen is found to not have
20 demonstrated “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice
21 and time for a respondent to file a motion to reopen and seek relief).

22 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
23 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
24 for good reason: To have a meaningful opportunity to apply for fear-based
25 protection from removal, immigrants must have time to prepare and present
26 relevant arguments and evidence. Merely telling a person where they may be sent,
27 without giving them a chance to look into country conditions, does not give them a
28 meaningful chance to determine whether and why they have a credible fear.

1 **B. The June 6, 2025 memo’s removal policies violate the Fifth**
2 **Amendment, 8 U.S.C. § 1231, the Conviction Against Torture, and**
3 **Implementing Regulations.**

4 The policies in the June 6, 2025 memo do not adhere to these requirements.
5 First, under the policy, ICE need not give immigrants *any* notice or hearing before
6 removing them to a country that—in the State Department’s estimation—has
7 provided “credible” “assurances” against persecution and torture. Exh. B. By
8 depriving immigrants of any chance to challenge the State Department’s view, this
9 policy violates “[t]he essence of due process,” “the requirement that a person in
10 jeopardy of serious loss be given notice of the case against him and opportunity to
11 meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

12 Second, even when the government has obtained no credible assurances
13 against persecution and torture, the government can still remove the person with
14 between 6 and 24 hours’ notice, depending on the circumstances. Exh. B.
15 Practically speaking, there is not nearly enough time for a detained person to assess
16 their risk in the third country and martial evidence to support any credible fear—let
17 alone a chance to file a motion to reopen with an IJ. An immigrant may know
18 nothing about a third country, like Eswatini or South Sudan, when they are
19 scheduled for removal there. Yet if given the opportunity to investigate conditions,
20 immigrants would find credible reasons to fear persecution or torture—like patterns
21 of keeping deportees indefinitely and without charge in solitary confinement or
22 extreme instability raising a high likelihood of death—in many of the third
23 countries that have agreed to removal thus far. Due process requires an adequate
24 chance to identify and raise these threats to health and life. This Court must prohibit
25 the government from removing Mr. Abdirahman without these due process
26 safeguards.

1 **III. This Court must hold an evidentiary hearing on any disputed facts.**

2 Resolution of a prolonged-detention habeas petition may require an
3 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).

4 Mr. Abdirahman hereby requests such a hearing on any material, disputed facts.

5 **IV. Prayer for relief**

6 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 7
- 8 1. Order Respondents to immediately release Petitioner from custody;
 - 9 2. Enjoin Respondents from re-detaining Petitioner unless and until ICE
10 obtains a travel document for his removal; and
 - 11 3. Enjoin Respondents from removing Petitioner unless they provide the
12 following process, *see D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV
13 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025):
 - 14 a. written notice to both Petitioner and Petitioner's counsel in a
15 language Petitioner can understand;
 - 16 b. a meaningful opportunity, and a minimum of ten days, to raise a
17 fear-based claim for CAT protection prior to removal;
 - 18 c. if Petitioner is found to have demonstrated "reasonable fear" of
19 removal to the country, Respondents must move to reopen
20 Petitioner's immigration proceedings;
 - 21 d. if Petitioner is not found to have demonstrated a "reasonable fear"
22 of removal to the country, a meaningful opportunity, and a
23 minimum of fifteen days, for the Petitioner to seek reopening of his
24 immigration proceedings.
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4. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: January 13, 2026

s/ Katie Hurrelbrink

KATIE HURRELBRINK
Federal Defenders of San Diego, Inc.
Email: Katie_Hurrelbrink@fd.org

PROOF OF SERVICE

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I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: January 13, 2026

/s/ Katie Hurrelbrink
Katie Hurrelbrink