

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Z.A.

Petitioner,

v.

HERMOSILLO, et al.,

Respondents.

Case No. 2:26-cv-00144-RSM

PETITIONER'S TRAVERSE

Noted for consideration on: February 4, 2026

Z.A. seeks an order of immediate release because: (1) he has a *prima facie* TPS application, which Respondents refuse to timely adjudicate; and (2) his re-detention without a pre-deprivation hearing on material changed circumstances, or even a prompt post-deprivation hearing, is unlawful. Alternatively, should the Court conclude that he is subject to mandatory detention, the factors in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019), weigh in his favor, and he asks that he be ordered released on the \$20,000 bond he has already paid.

I. Petitioner should be released because he has submitted a *prima facie* TPS application.

Respondents do not dispute that Z.A. is entitled to release if he has a *prima facie* TPS application, in accordance with the statutory language and agency guidance. *See* Dkt. 2 at 11-13 (Pet.'s

1 Memo. outlining statutory construction); Dkt. 3 at 47 (Carpenter Memo.) (“INS must release detained
2 individuals who may be eligible for TPS ...”).

3 Respondents also do not dispute that Z.A. has provided sufficient evidence for a prima facie
4 showing, namely that he is a citizen of Yemen who has been physically present and continuously
5 resided in the U.S. since before July 2, 2024, and that no bars to TPS apply. See Dkt. 2 at 7, 11; Dkt. 3
6 at 3-24 (excerpts of TPS application and evidence). Respondents introduce no evidence and make no
7 allegations that Z.A. does not have a prima facie TPS case, as an Immigration Judge (IJ) previously
8 found. Dkt. 3 at 30.

9 Instead, Respondents argue that Petitioner must remain in detention because USCIS has not
10 issued an independent, initial prima facia determination notice, a document which is not described in
11 any statute or regulation. Respondents’ position is contrary to the plain language of the statute and
12 regulations, which state that an applicant shows a prima facie claim by filing an application that on its
13 face demonstrates eligibility, which Z.A. has. 8 C.F.R. § 244.5(b). Moreover, Respondents have a
14 policy of refusing to issue timely initial prima facie determinations, instead delaying consideration and
15 adjudication of TPS applications until a full “one-touch” review on the merits. *See Mansor v. United*
16 *States Citizenship & Immigr. Servs.*, 685 F. Supp. 3d 1000, 1011-12 (W.D. Wash. 2023); *Mansor*,
17 Case No. 2:230cv-00347 (JLR), Dkt. 126 at 21-22 (Dec. 1, 2025) (granting Pls.’ Mot. for S.J.). In
18 addition, Respondents have indefinitely and unlawfully “paused” adjudication of TPS applications
19 from Yemen, a policy that Respondents notably make no effort to defend. *See* Dkt. 2 at 14-15.
20 Petitioner asks this Court to reject Respondents’ assertion that they may detain Z.A. and deprive him
21 of TPS benefits until the agency produces a document that it refuses to issue as a matter of policy.

22 **A. Respondents refuse to issue initial prima facie determinations.**

23 In arguing that only way Z.A. may demonstrate prima facie eligibility is through a USCIS
24 notice, Respondents omit that as a policy the agency refuses to issue timely, initial prima facie
25 notifications. Dkt. 8 at 8. As outlined in the *Mansor* TPS class litigation, the agency has a long-

1 standing practice of refusing to provide initial prima facie determinations. *See Mansor*, 345 F.R.D. at
2 200; *Mansor*, Case No. 2:230cv-00347 (JLR), Dkt. 126 at 6-7 (Dec. 1, 2025) (granting Pls.’ Mot. for
3 S.J.). While the regulations require an initial prima facie determination “[u]pon the filing” of a TPS
4 application, 8 C.F.R. § 244.5(b), the agency prefers to skip an initial prima facie review and generally
5 only conducts a merits review, with the logic that this is a time-saving practice. *Mansor*, 345 F.R.D. at
6 200. At this “one touch” merits review, the agency will grant the TPS application if it is approvable.
7 *Id.* If USCIS cannot issue a decision on the merits review, and is issuing a request for additional
8 evidence or a notice of intent to deny, it may issue a prima facie determination pending receipt of this
9 evidence or response. *Id.* This results in a system where: (1) USCIS may never issue a prima facie
10 determination for cases; and (2) USCIS does not provide the required, initial interim TPS benefits for
11 prima facie applicants, because at the single merits review cases are approved (or denied) “without
12 having ever issued temporary treatment benefits.” *Mansor*, 345 F.R.D. at 200. The *Mansor* litigation
13 focused on the prima facie benefit of interim work authorization, rather than protections against
14 detention or removal. Nonetheless, the statutory and regulatory provisions at issue are the same. The
15 court in *Mansor* concluded that Respondents’ “one touch” policy violated the statute and regulation by
16 unlawfully withholding an interim benefit, and it enjoined the agency from using the “one-touch”
17 policy. *Mansor*, Case No. 2:230cv-00347 (JLR), Dkt. 126 at 21-22 (Dec. 1, 2025) (granting Pls.’ Mot.
for S.J.). The case is currently on appeal to the Ninth Circuit.

18 It gets worse. As part of a “travel ban,” USCIS now refuses to adjudicate Yemen TPS
19 applications. *See* Dkt. 2 at 13-14. As argued in Petitioner’s memorandum of law, it is contrary to Ninth
20 circuit precedent to apply a “travel ban” to persons who are not actually traveling and seeking
21 admission from outside the U.S., but rather the adjudication of a benefit within the United States. *Id.*,
22 *citing East Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 773-74 (9th Cir. 2018). Notably,
23 Respondents offer no defense of this policy and simply ignore it and Petitioner’s arguments.
24

1 Between the agency's policy of refusing to issue initial prima facie notifications, which the
2 *Mansor* court just declared unlawful, and the new "travel ban," which Respondents do not defend,
3 Respondents propose a Catch-22 where TPS applicants always lose: an applicant may only make a
4 prima facie showing if USCIS issues an initial prima facie determination; but USCIS refuses to do so.

5 **B. Petitioner has a prima facie TPS application entitling him to benefits.**

6 An applicant for TPS "establishes a prima facie case of eligibility," 8 U.S.C. § 1254a(a)(4)(B),
7 with the filing of an application that, on its face and without more, demonstrates eligibility. This is
8 consistent with the express language of the implementing regulations: "Prima facie means eligibility
9 established with the filing of a completed application for [TPS] containing factual information that if
10 un rebutted will establish a claim of eligibility under [8 U.S.C. § 1254a]." 8 C.F.R. § 244.1; *see also* 8
11 C.F.R. § 244.5(b) (stating that "[u]pon the filing" of a TPS application, the applicant "shall be
12 afforded temporary treatment benefits, if the application establishes the [applicant's] prima facie
13 eligibility for [TPS]" (emphasis added)). Indeed, the plain meaning of the term prima facie is
14 something established at first sight, or on its face. *See* Prima facie, Black's Law Dictionary (12th ed.
15 2024) ("At first sight; on first appearance but subject to further evidence or information"). Thus, the
16 law mandates that TPS temporary treatment benefits shall be afforded upon the filing of the
17 application, not at some future, arbitrary point when USCIS considers the merits of the application.
18 *See Mansor*, Case No. 2:230cv-00347 (JLR), Dkt. 126 at 21-22.

19 Petitioner acknowledges that a prima facie showing is more than just "filing a petition," Dkt. 8
20 at 6, as it requires by definition an initial showing, but Z.A. has already made this showing. An IJ
21 previously found he was prima facie eligible. Dkt. 3 at 30. While this finding was prior to filing,
22 Respondents make no argument to counter his evidence of prima facie eligibility. The TPS analysis is
23 simple and undisputed: Z.A. has filed a TPS application with supporting evidence, meets the physical
24 presence and continuous residence requirements, and is not subject to any bars. *See* Dkt. 2 at 7, 11;
25 Dkt. 3 at 3-24.

1 The agency's responses to comments to the proposed initial TPS regulation do not suggest
2 otherwise. *See* Dkt. 8 at 7. The agency's response was agreement: "The Service agrees that temporary
3 treatment benefits should be issued *immediately* after the applicant establishes his or her prima facie
4 eligibility." 56 FR 23491-02 at 23493 (emphasis added). The fact that the agency did not re-write the
5 regulation in response to a comment but retained the right to make use of evidence to rebut a claim of
6 eligibility did not eviscerate the plain regulatory language that an applicant "shall be afforded
7 temporary treatment benefits" "[u]pon the filing" of a prima facie TPS application. 8 C.F.R. §
8 244.5(b). Indeed, the court in *Mansor* rejected this same argument. *Mansor*, 685 F. Supp. 3d at 1011-
9 12.

10 The decision in *Salad v. Dep't of Corr.*, 769 F. Supp. 3d 913, 922–23 (D. Alaska 2025), is
11 instructive. As in this case, in *Salad* the agency had not made any determination on a pending TPS
12 application. *Id.* The Court in *Salad* examined the record and found that "Salad has shown that he has
13 applied for TPS and is prima facie eligible." *Id.* As here, respondents in *Salad* had raised no arguments
14 against his prima facie TPS eligibility. With the statute and regulation being silent as to how a prima
15 facie determination is made, and given that this is a straightforward application of fact to law, with no
16 opposing evidence submitted by Respondents, there is no impediment to the Court effecting the plain
17 language of the statute and regulation when the agency refuses to do. *See Kucana v. Holder*, 558 U.S.
18 233, 251 (2010) (presumption of favoring judicial review of administrative action); *Harris v. Nelson*,
394 U.S. 286, 291 (1969) (emphasizing the flexible nature of habeas corpus).

19 In *Osman*, in contrast, USCIS had issued a determination – most likely only for purposes of
20 litigation – that the applicant did *not* make a prima facie showing for TPS. *Osman v. Schmidt*, No. 25-
21 CV-286, 2025 WL 870048, at *3 (E.D. Wis. Mar. 20, 2025). *Osman* explicitly distinguished *Salad* by
22 noting that Osman "was found not to be prima facie eligible for TPS ..." *Id.* The *Osman* court stated
23 that it would not determine TPS prima facie eligibility in the first instance, citing considerations of
24 exhaustion, but noted that "an unreasonable delay in USCIS determining an applicant's prima facie

1 eligibility or ultimate resolution of an application may constitute waiver of any failure to exhaust.” *Id.*
2 As argued *supra* I.A., such an exception to exhaustion would be appropriate here as USCIS is not just
3 delaying, but refusing to issue initial prima facie determinations. USCIS has a duty to adjudicate TPS
4 applications, and Congress has indicated that the agency should do so within 30 days. *See* 8 U.S.C. §
5 1571(b). It would be futile to require exhaustion where, as here, the agency refuses to act.

6 Petitioner asks the Court to reject Respondents’ proposal to nullify the statute and regulations
7 by permitting the agency to detain and deport individuals with prima facie TPS applications because of
8 Respondents’ refusal to act. Habeas is a flexible remedy, rooted in the equitable power of the Court.
9 “The very nature of the writ demands that it be administered with the initiative and flexibility essential
10 to insure that miscarriages of justice within its reach are surfaced and corrected.” *Id.* Just like *Salad*,
11 Respondents have failed to raise any argument as to why the prior IJ’s decision and Z.A.’s submitted
12 evidence does not show prima facie eligibility. Accordingly, Petitioner asks the Court to order his
13 release based on his prima facie eligibility for TPS.

14 **II. Petitioner’s re-detention was unlawful**

15 The parties agree that the Court applies the three-part *Mathews* analysis to the question of
16 whether Petitioner’s re-detention without a pre-deprivation hearing – or any hearing before a neutral
17 adjudicator – violates Z.A. right to due process.

18 **A. Petitioner’s weighty private interest.**

19 Respondents concede, as they must, that Z.A. has an interest in remaining at liberty pending a
20 final decision on his asylum and TPS claims. Dkt. 8 at 9. Respondent has lived and worked in the U.S.
21 for years while his asylum application was pending. He was released on a significant \$20,000 bond,
22 with an IJ evaluating whether he was a danger to the community or a flight risk. Respondents may
23 only revoke this bond by a showing of a material change of circumstances. *See Garro Pinchi v. Noem*,
24 No. 25-CV-05632-PCP, 2025 WL 3691938, at *3 (N.D. Cal. Dec. 19, 2025) (collecting cases and
25 outlining history). The first *Mathews* factor weighs in Petitioner’s favor.

B. The risk of an erroneously deprivation is not just high, but has already occurred.

This Court has repeatedly ordered that persons previously released from detention are entitled to a pre-deprivation hearing in order to prevent the possibility of an erroneous deprivation of liberty. *See, e.g., Da Silva v. Scott*, No. 2:25-CV-2651-RSM, 2026 WL 100705, at *2 (W.D. Wash. Jan. 14, 2026); *Perez v. Hermosillo*, No. C25-2542-RSM, 2026 WL 100735, at *6 (W.D. Wash. Jan. 14, 2026). Z.A.'s case underscores the importance of these rulings because the basis for his re-detention was unlawful.

First, Respondents applied the incorrect law by ignoring the fact that he was already released on bond by the IJ. Respondents fail to acknowledge or address the authority Z.A. cites in his legal memorandum that an IJ's prior bond determination may *only* be revoked through a prompt "changed circumstances" hearing before an IJ. *See* Dkt. 2 at 15, *citing, inter alia, Saravia for A.H. v. Sessions*, 905 F.3d 1137, 1145 n. 10 (9th Cir. 2018). Respondents conducted no such "changed circumstances" hearing. Instead the "Chief CBP Officer" issued an initial custody determination and ordered him detained. Dkt. 10-9. Even though Respondent asked for IJ review of this determination, *id.*, Respondents never provided it, *see* Exh. A ¶ 7. Respondents erroneously detained Z.A. under the legal provisions regarding persons who had *never* had a bond hearing, failing to lawfully revoke his bond.

Second, the officer who signed the custody determination was not authorized to conduct a bond revocation under 8 C.F.R. § 236.1(c)(9). Only the officers enumerated in § 236.1(c)(9) may revoke a bond, and the only authorized non-director or assistant director level officer listed in the regulation is an "officer in charge (except foreign)." *Id.* A "Chief" officer, like the "Chief CBP Officer" who signed the custody determination, is not an "Officer in charge." *Compare* 8 C.F.R. § 287.5(e)(2)(ix)(officer in charge (except foreign)) with (xi) (Chief patrol agents). The officer who ordered Z.A.'s re-detention did not have the authority to do so.

Third, Respondents' justification for Z.A.'s re-detention was that "he left and then reentered the United States." Dkt. 8 at 10. But Ninth Circuit law holds that Z.A. did not effect a departure and

1 re-entry because he was excluded and denied entry to Canada. *See Handa v. Clark*, 401 F.3d 1129,
2 1133 (9th Cir. 2005); *Nicutor-Remus v. Sessions*, 902 F.3d 895, 900 (9th Cir. 2018) (“By way of
3 analogy, an individual who steps onto the doorstep but finds that the front door is locked has not left
4 the outdoors.”); *Matter of T-*, 6 I. & N. Dec. 638, 640 (BIA 1955) (return of an individual refused
5 admission to other country is not an “entry.”). “The fact that Dr. Handa was physically permitted to
6 drive past the Canadian border crossing and drive around the Canadian flag pole, does not change the
7 fact that Dr. Handa had not legally entered Canada. Because Dr. Handa had not legally entered
8 Canada, Dr. Handa did not legally depart from the United States.” *Handa v. Crawford*, 312 F. Supp.
9 2d 1367, 1373 (W.D. Wash. 2004), *aff’d sub nom.*; *see also* Dkt. 10-7 at 2, 6-7 (finding Z.A. not
10 authorized to enter Canada and order of exclusion).

11 While Respondents now claim that Z.A. departed the U.S., Respondents at the time of his re-
12 detention treated Z.A. just as Dr. Handa was treated, as an individual who had not departed the U.S.
13 Respondents did not initiate new proceedings against Respondent, but rather continued pending
14 removal proceedings. *See* Dkt. 10-8 at 2. They did not issue a new Notice to Appear (NTA) with a
15 new allegation of the new date of entry, but continued proceedings on the prior NTA. Dkt. 10-4 at 2.
16 Respondents did not require Z.A. to submit a new application for asylum or consider his application
17 abandoned. *See* 8 C.F.R. § 1208.8. Respondents’ proffered rationale for Z.A.’s re-detention is contrary
18 to Ninth Circuit law and his treatment at the time of re-detention.

19 Fourth, even if the turnaround at the border were considered a departure, it would not have
20 violated the conditions of his bond. The IJ ordered that Z.A. be released on a bond of \$20,000 with
21 only two conditions: that he not drive unless in possession of a valid driver’s license, and that he
22 provide identity documents. Dkt. 10-5 at 2. While ICE may not impose additional conditions outside
23 the bond order, *see, e.g., Garcia Cortes v. Guadian*, 2026 WL 265688, at *2 (D. Colo. Feb. 2, 2026), a
24 later “Notice of Release” – which notably lacks the required proof of service on Z.A. – purports to
25 impose additional conditions. Dkt. 10-6 at 2. Still, none of these conditions bars a brief departure from

1 the U.S. *See id.* While it would be common for a person facing criminal charges to have as a condition
 2 the relinquishment of a passport and instructions not to leave the country, it makes sense that this is
 3 not an Immigration bond condition when the U.S. is *trying* to remove individuals and offers cash to
 4 leave.¹ A TPS applicant could lawfully submit an I-131 for advance parole, leave, and return to the
 5 country. *See* <https://www.uscis.gov/i-131> (last accessed Feb. 4, 2026). Z.A. did not violate any
 6 condition of release, and he has significant evidence of not intending to leave the U.S. that he could
 7 have argued before an IJ at a pre-deprivation hearing. *See* Exh. A (Z.A. Decl.); Exh. B (Sharabati
 8 Decl.).

9 Fifth, Respondents apply the incorrect statute to argue that Z.A. is subject to mandatory
 10 detention under 8 U.S.C. § 1225(b). Contrary to Respondent's assertion, Petitioner *does* dispute that he
 11 is detained under § 1225(b) when he has already been granted bond under 8 U.S.C. § 1226(a), INA §
 12 236(a), and the agency has consistently cited INA §236(a) as the source of their detention authority.
 13 While Respondents initially treated Z.A. as subject to expedited removal as an arriving non-citizen
 14 under § 1225(b)(1), INA § 235(b)(1), *see* Dkt. 10-1 at 2, when proceedings were commenced over
 15 eight months after his entry, Respondents charged and treated him as an individual present without
 16 inspection. The Notice to Appear (NTA) does not charge him as "arriving," as it should for a person
 17 subject to expedited removal, but rather as present without being admitted or paroled. Dkt. 10-4 at 2.
 18 More telling, Respondent provided a bond hearing and an IJ ordered a \$20,000 bond pursuant to "8
 19 C.F.R. § 1236," as opposed to detained as on a charge of being arriving and subject to mandatory
 20 detention under 8 C.F.R. §§ 235.3(b)(2)(iii), (c). Dkt. 10-5 at 2. Respondents continued to treat Z.A. as
 21 subject to 8 U.S.C. § 1226, INA § 236, and not § 1225, when re-detained. The CBP officer at Blaine
 22 issued a Warrant for Arrest under Section 236. Dkt. 10-8 at 2. The Notice of Custody Determination
 23 cited INA § 236 as the authority for detention, not § 1225. Dkt. 10-9 at 2. Z.A.'s case is analogous to
 24 *C.W.M. v. Hermosillo*, No. 2:25-CV-02688-DGE, 2026 WL 183587, at *3 (W.D. Wash. Jan. 23,

¹ *See* <https://www.dhs.gov/news/2025/12/22/increased-incentives-dhs-now-offering-3k-holiday-stipend-through-end-year-cbp-home> (last accessed February 3, 2026).

1 2026), where Respondents also incorrectly alleged detention under § 1225. “Here, the risk of
2 erroneous deprivation is not just high; it appears to have already materialized. Counsel for
3 Respondents wrongly asserts Petitioner was subject to § 1225 when released on January 15, 2024
4 when in fact she was released pursuant to § 1226.” *Id.* at *4.

5 Respondents’ assertion that a post-deprivation hearing would be sufficient to protect Z.A.’s
6 due process rights is belied not only by the above violations, but also by the fact that they have failed
7 in over seven months of detention to provide him with the post-deprivation hearing he requested. The
8 agency purports to provide a “changed circumstances” bond hearing before an IJ within seven to
9 fourteen days. *See Saravia for A.H. v. Sessions*, 905 F.3d at 1145 n. 10. Z.A. immediately requested a
10 post-deprivation hearing before an IJ on June 21, 2025, the same day he was re-detained. Dkt. 10-9 at
11 2. Even the case cited by Respondents for the proposition that a post-deprivation hearing may in some
12 cases be sufficient explains the post-deprivation hearing must be “timely” or “prompt,” in “situations
13 that urgently require arrest.” *Martinez Hernandez v. Andrews*, No. 1:25-CV-01035 JLT HBK, 2025
14 WL 2495767, at *1, *10-*12 (E.D. Cal. Aug. 28, 2025) (rejecting argument and ordering immediate
15 release for failure to provide a pre-deprivation hearing). Here, there were no urgent facts requiring
16 immediate detention when Z.A. was attempting to remain in the U.S. and had not violated the
17 conditions of his bond. As argued in II.C. *infra*, Respondents have well-established mechanisms for
18 scheduling a pre-deprivation hearing. Respondents’ argument for a post-deprivation process rings
19 hollow when they have failed to provide a required, and requested, changed circumstances hearing
20 before an IJ even after seven months. For these reasons, the second *Mathews* factor weighs strongly in
21 Petitioner’s favor.

22 **C. The Government’s interest is minimal**

23 Respondents’ interest in re-detaining Z.A. without a pre-deprivation hearing is minimal.
24 Respondents have an interest in ensuring a noncitizen appears at future immigration proceedings and
25 that a noncitizen does not pose a danger to the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690

(2001). An IJ already made a determination that Respondent was not a danger to the community, which he has demonstrated by living a productive and peaceful life since release. The IJ set a bond of \$20,000, which on information and belief Respondents still retain, which is a significant incentive to appear for any future proceedings. Z.A. has appeared for all hearings, and he has provided evidence that he did not intend to go to Canada, corroborated by the declaration of a U.S. citizen witness. Exh.'s A & B.

A pre-deprivation process was available at a minimal cost or burden. In *C.W.M.*, an asylum seeker also was encountered by CBP at the border, after departing from the U.S. on a cruise that stopped in the Bahamas. *See* 2026 WL 183587, at *3. Rather than detain the individual, CBP set her for a non-detained deferred inspection. *Id.* This process was equally available to Respondents in Z.A.'s case, in addition to simply setting a "changed circumstances" hearing before any of the IJs who sit in Seattle or Tacoma.

Because the *Mathews* factors favor Z.A., he asks that the Court order his immediate release.

III. Due process and prolonged detention

Should the Court find Z.A. subject to mandatory detention, the factors in *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117-118 (W.D. Wash. 2019), weigh in favor of release on bond after prolonged detention.

The first *Banda* factor regarding length of detention weighs in Petitioner's favor. In *Zadvydas*, the Supreme Court specifically pointed to six months as a point at which civil detention raises constitutional concerns. 533 U.S. at 701. While there is no bright-line rule, Courts have found that detention over seven months can become constitutionally impermissible. *See, e.g., Cabral v. Decker*, 331 F. Supp. 3d 255, 256 (S.D.N.Y. 2018). This the "most important factor." *Banda* at 1118.

The second factor regarding prospect of further detention is not speculative, as Z.A. faces many months and perhaps well more than a year of future proceedings pending a determination by the

1 BIA and possibly the Ninth Circuit. Moreover, as a *prima facie* TPS applicant, he cannot be removed
2 while his application is pending or in TPS status. Thus, the second factor weighs in his favor.

3 Respondents do not contest that the third factor, the conditions of detention, weigh in Z.A.'s
4 favor, acknowledging that he is detained at NWIPC. Dkt. 8 at 12. Conditions are difficult and
5 effectively the same as a prison. *See* Exh. A ¶ 9.

6 The fourth and fifth factors, assessing delays caused by either party, also weigh in Z.A.'s favor.
7 Z.A. has consistently pursued his case, and he rejected the IJ's motion to take his case off the calendar.
8 Exh. A ¶ 4. In contrast, Respondents refuse to adjudicate his *prima facie* TPS application for some
9 indefinite period under an unlawful "pause" which they do not defend. These factors weigh in Z.A.'s
10 favor.

11 As to the final factor, while the IJ ordered removal, Z.A. contends that he has strong grounds
12 for appeal as well as a *prima facie* TPS application. *See* Exh. A ¶¶ 1, 8. The record thus demonstrates
13 that he has a substantive claim for relief, and that from his arrival he has consistently sought to present
14 his claim for asylum.

15 For these reasons, the balance of the *Banda* factors weigh in his favor. Ordinarily, the Court
16 would order a bond hearing. However, Z.A. already had a bond hearing, where he had the burden of
17 proof, and the IJ set a \$20,000 bond. Accordingly, if the Court reaches the *Banda* prolonged detention
18 issue, Z.A. requests the Court order his immediate release under the \$20,000 bond he has already
19 posted.

20 CONCLUSION

21 For the foregoing reasons, Petitioner respectfully request the Court order his immediate release
22 and direct he not be re-detained without a pre-deprivation hearing before an IJ.
23
24
25

1 Respectfully submitted this 4th day of February, 2026.

2
3 s/ Christopher Strawn

4 Christopher Strawn

5 WSBA No. 32243

6 NORTHWEST IMMIGRANT RIGHTS PROJECT

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10 *Counsel for Petitioner*

11 *I certify that this traverse contains 4,187 words, in compliance with the Local Civil Rules.*