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UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF CALIFORNIA  
EASTERN DIVISION

Kazem Majd  
Petitioner,  
v.

Christopher J. LaRose, Warden, Otay Mesa  
Detention Facility,  
Respondent.

**'26CV0245 JES BLM**  
**PETITION FOR WRIT OF**  
**HABEAS CORPUS**

A No



**INTRODUCTION**

Petitioner is 77 years old and originally from Iran. Petitioner has lived in the United States for nearly sixty years. He suffers from serious and life-threatening medical issues. On December 11, 2025, he was detained at his ICE check-in in Santa Ana. Petitioner is now detained at the Otay Mesa Detention Center in Otay Mesa, California.

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In 2004, Petitioner was ordered removed then placed on an Order of Supervision (OSUP). Petitioner regularly attended his ICE check-ins and never missed an appointment. Throughout the years and until his detention, Petitioner was never told that he has ever violated any terms of his OSUP. Despite this, Petitioner was detained on December 11, 2025, at his ICE check-in.

This habeas petition is based upon the fact that (1) Petitioner is facing a medical emergency as a result of Respondent’s deliberate indifference and violation of the Section 504 of the Rehabilitation Act; (2) the 90 day removal period has long since passed; (3) that Petitioner is able to rebut the presumption articulated under *Zadvydas v. Davis*, 533 U.S. 678 (2001) because his removal to Iran is not significantly likely; and (4) that ICE failed to follow procedure when it detained Petitioner, in violation of his substantive and procedural Due Process rights.

Accordingly, Petitioner respectfully petitions this Court for a writ of habeas corpus ordering his immediate release under appropriate conditions of supervision, or any other appropriate order.

**JURISDICTION**

This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

1 This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas  
2 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United  
3 States Constitution (Suspension Clause). Jurisdiction is proper because Petitioner  
4 challenges the legality of his continued civil immigration detention under 8 U.S.C.  
5 § 1231(a) and the Constitution, and no statute strips this Court of jurisdiction to  
6 review such claims.

7  
8 This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §  
9 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All  
10 Writs Act, 28 U.S.C. § 16.

11 VENUE

12 Venue is proper in the United States District Court for the Southern District  
13 of California pursuant to 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241 because  
14 Petitioner is currently detained at the Otay Mesa Detention Facility, located in Otay  
15 Mesa, California, which lies within the jurisdiction of this District.

16  
17 “The plain language of the habeas statute thus confirms the general rule that  
18 for core habeas petitions challenging present physical confinement, jurisdiction lies  
19 in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426,  
20 443 (2004).

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“Today we affirm the application of the immediate custodian and district of confinement rules to core habeas petitions filed pursuant to 28 U.S.C. § 2241, including those filed by immigrant detainees.” *Doe v. Garland*, 109 F.4th 1188, 1199 (9<sup>th</sup> Cir. 2024). “Habeas petitions must be filed in the district of confinement.” *Id.* at 1199.

In addition, Respondent Warden Christopher J. LaRose is located in the Southern District. The “default rule is that the proper respondent is the warden of the facility where the prisoner is being held.” *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).

Petitioner is also a resident of San Diego prior to his detention where he lives with his life partner. His doctors, who included medical letters with this habeas petition, and which may be called as witnesses, are also located within the Southern District of California.

Respondent is an officer or agent of the United States, and no real property is involved in this action.

**REQUIREMENTS OF 28 U.S.C. § 2243**

The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not

1 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court  
2 must require respondents to file a return “within *three days* unless for good cause  
3 additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

4 Courts have long recognized the significance of the habeas statute in  
5 protecting individuals from unlawful detention. The Great Writ has been referred to  
6 as “perhaps the most important writ known to the constitutional law of England,  
7 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
8 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). Given that  
9 Petitioner is currently physically detained, an expedited timeline for briefing and  
10 adjudication is appropriate under the statute.

### 11 PARTIES

12 Petitioner is a noncitizen from Iran and is detained at the Otay Mesa  
13 Detention Facility in Otay Mesa, California. He is in custody and under the direct  
14 control of Respondent.

15 Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention  
16 Facility in Otay Mesa, CA, has immediate physical custody of Petitioner pursuant  
17 to the facility’s contract with U.S. Immigration and Customs Enforcement to detain  
18 noncitizens. Respondent is a legal custodian of Petitioner.

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**STATEMENT OF FACTS**

Petitioner Kazem Majd is a 77-year-old male born on [REDACTED] in Iran.

Petitioner has lived in the United States since approximately the 1960's and became a lawful permanent resident of the United States around 1973.

Petitioner has not returned to Iran since 1976, and fears persecution because his family was part of the Shah's regime prior to the Islamic Revolution in 1979, and that he is opposed to the theocracy in Iran. Counsel is informed and believes that as the result of a fraud-related conviction in 1999, he was placed in removal proceedings around 2002.

Petitioner never filed for asylum or any relief while in removal proceedings. During that time, he could not afford an attorney. In July 2004, Petitioner was ordered removed to Iran. In August 2004, he filed a motion to reopen his removal matter, but that motion was denied. No appeals were filed and no motion to reopen is pending challenging the removal order at this time. Because Petitioner thought he was allowed to remain in the United States, he sought no other legal action challenging his removal order. Shortly after he was ordered removed in 2004, Petitioner was placed on an Order of Supervision and dutifully complied with all check-ins. *See* Exhibit A, OSUP Compliance.

1           Shortly after he was ordered removed in 2004, Petitioner was placed in  
2 immigration custody for approximately three months. In a 2004 letter from the  
3 Iranian Interest Section to ICE, the Iranian government confirms “In accordance  
4 with regulations governing the issuance of an Iranian travel document, submission  
5 of the original Iranian birth certificate is necessary. We would not be able to issue  
6 a travel document for anyone without an Iranian birth certificate.” *See Exhibit B*  
7 **Letter from Iranian Interest Section.**

8  
9           Iran and the United States have had no diplomatic relations since 1980, and  
10 consular matters are handled by the Iranian Interest Section at the Embassy of  
11 Pakistan in Washington, DC. As a result of the lack of diplomatic relations  
12 between the United States and Iran and the lack of a birth certificate, Petitioner’s  
13 removal could not be executed. Petitioner was placed on an Order of Supervision  
14 in 2004 and has dutifully reported each year. Petitioner has never missed a check-  
15 in.

16           The political and diplomatic situation vis-à-vis Iran and the United States  
17 remains unchanged. There is no Iranian embassy in the United States and no U.S.  
18 embassy in Iran. Both countries view one another as hostile and are constantly on  
19 the edge of conflict.

1           Petitioner holds no valid Iranian passport and has never applied for, or was ever  
2 issued, an Iranian passport under the Islamic Republic. He holds no travel  
3 documents. Petitioner has misplaced his original Iranian birth certificate, which  
4 was issued by the ancien régime when Iran was ruled by the Shah.  
5

6           Even if Petitioner were to locate his original Iranian birth certificate, the  
7 Islamic Republic of Iran does not recognize old birth certificates issued under the  
8 monarchy, and a special process is required to obtain a new *shennasnameh* (birth  
9 certificate) from Iran, which requires giving someone power of attorney in Iran to  
10 obtain such a document from Iran’s National Organization of Civil Registration.

11           The United States Department of State confirms this. The DOS visa  
12 reciprocity schedule for Iran notes “Renewals of old birth certificates or  
13 replacements of lost birth certificates are available by applying *in person* at the  
14 registry office.” See [https://travel.state.gov/content/travel/en/us-visas/Visa-  
15 Reciprocity-and-Civil-Documents-by-Country/IranIslamicRepublicof.html](https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/IranIslamicRepublicof.html).

16           Obtaining an Iranian passport is predicated upon a valid birth certificate.  
17 Given this, it is unlikely that Petitioner or Respondent will be able to obtain any  
18 travel documents or passport for Petitioner. The Iranian Interest Section also notes  
19 that an original Iranian birth certificate is needed for passport issuance. See  
20

1 Exhibit B. It also requires an original National ID card, proof of military service  
2 or exemption, and recent photographs. *Id.* Petitioner has none of these.

3  
4 Nothing has changed since 2004 when the Iranian government affirmatively  
5 stated that no travel documents would be issued to Petitioner because he lacked a  
6 birth certificate.

7 **A. Procedural Violations of 8 C.F.R. §§ 241.4 and 241.13 at Time of Detention**

8  
9 Petitioner appeared for a pre-scheduled ICE check-in on November 13,  
10 2025. *See* Exhibit C, ICE check-in. During that check-in, Petitioner provided ICE  
11 with medical letters. ICE asked Petitioner for a list of medications he was taking  
12 and noted them. ICE then instructed Petitioner to pick up a monitoring device in  
13 lieu of detention, which he did. The ankle monitoring device was kept on  
14 Petitioner for about two weeks, but then it was removed with permission from ICE  
15 due to Petitioner's regular MRI and MRCP scans, which are done every month to  
16 monitor his liver.

17 ICE concluded that they would not detain Petitioner due to medical reasons  
18 because they could not treat him while in detention. Petitioner was then instructed  
19 to return on December 11, 2025, where he would be given a new reporting  
20 schedule.

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On December 11, 2025, Petitioner appeared at the Santa Ana ICE location as instructed. Petitioner did not bring any medications because he was informed, he would not be detained. However, Petitioner was detained during that check-in.

During his arrest, ICE failed to provide Petitioner an opportunity to be heard regarding his detention. The agency did not conduct a formal or informal interview to assess his suitability for release in violation of the procedures outlined in 8 C.F.R. §§ 241.4 and 241.13.

Nor was Petitioner given an opportunity to respond to the decision to detain him. His detention occurred without advance notice and came as a surprise to himself and his family, who were previously told by ICE he would not be detained due to his medical condition.

Petitioner was never told he could submit evidence to support his release from detention. If he was given a good faith interview, he would have explained his medical condition to the arresting officer and provided medical documents he had in his possession precisely in case he was detained. He would have explained that due to his health conditions, detention would pose a serious risk to his health; he would have explained that he has no birth certificate, and no way of obtaining one, nor has he ever had a valid passport under the current regime in Iran.

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Petitioner would have attempted to explain the political situation between Iran and the United States, and how Iran has not historically accepted deportees from Iran, and that the situation remains unchanged. Petitioner would have also explained that he opposes the theocracy in Iran, supports the monarchy, and his life would be in danger if he was returned to Iran as a result of his political opinions. But Petitioner was never given this opportunity.

Further, If Petitioner was given an opportunity, he would have alternatively asked for his detention to be delayed until travel documents were issued, in light of his serious health conditions. But Petitioner was never given a real opportunity to address his arrest and detention. In fact, because Petitioner believed he would not be detained, he was not prepared to fully address all issues regarding detention. Advance notice would have allowed Petitioner to locate a letter he obtained from the Iranian Interest Section which showed Iran would not issue him travel documents. Advance notice would have also allowed Petitioner to identify important documents that could be helpful in releasing him from detention. Advance notice would have allowed him to carry with him lifesaving medications, his CPAP machine and reading glasses. However, Petitioner was unprepared because he was repeatedly told by ICE that he would not be detained.

1 While the government may try to characterize his arrest as an “informal  
2 interview,” this is not the case. 8 CFR § 241.13(i)(3) requires a prompt informal  
3 interview, “to afford the alien an *opportunity to respond* to the reasons for  
4 revocation,” and during this interview “The alien may submit any evidence or  
5 information that he or she believes shows there is no significant likelihood he or  
6 she be removed in the reasonably foreseeable future.” *Id.* The “custody review  
7 will include an evaluation of any contested facts relevant to the revocation and a  
8 determination whether the facts as determined warrant revocation and further denial  
9 of release.” *Id.*

10  
11 Petitioner was not given an opportunity to respond, or formal or informal  
12 interview. In fact, Petitioner’s detention was in contradiction to what he was told in  
13 November, in that he would not be detained as a result of his medical condition.

14 **B. Serious Medical Conditions and Denial of Medical Treatment**

15  
16 Petitioner suffers from complex, chronic, and progressive medical conditions  
17 that require specialized medical oversight not available in a detention setting.  
18 Specifically, Petitioner was diagnosed with Primary Sclerosing Cholangitis (PSC)  
19 in 2021, a rare and life-threatening liver disease characterized by inflammation and  
20 scarring of the bile ducts. According to his liver specialist, Dr. Paul J. Pockros, this

1 condition can advance unpredictably, leading to cirrhosis, liver failure, and death  
2 without consistent, specialized surveillance. *See* Exhibit D; D-1, D-2.

3  
4 **a. Primary Sclerosing Cholangitis (PSC) Ignored and Untreated,  
Causing Life Threatening Injury or Death**

5 Dr. Pockros states “PSC is an uncommon condition, and there are very few  
6 clinicians in the United States or worldwide with expertise in its management.  
7 General practitioners or non-specialized clinicians cannot safely manage the subtle  
8 and potentially rapidly evolving complications associated with this disease. The  
9 failure to provide specialized care constitutes a direct risk of harm, as the patient’s  
10 disease can progress silently and suddenly, leading to life-threatening outcomes,”  
11 that it “is not a condition that can be managed casually or without specialized  
12 medical oversight,” and that it is medically necessary for Petitioner to remain under  
13 the care of a liver specialist. *See* Exhibit D; D-1, D-2.

14 Dr. Pockros warns of a “cascade of harm” that will result from a lack of  
15 specialized care, including “imminent risk of irreversible liver damage, cancer  
16 progression, systemic infection and death.” Exhibit D-1. Separately, Petitioner’s  
17 primary care physician, Dr. Miller warns Petitioner is at “*imminent risk of*  
18 *irreversible liver injury, acute cholangitis, malignancy, and death.*” *Id.* (emphasis  
19 added). Dr. Miller further warns that deterioration is occurring *now* and that the  
20

1 “deterioration will reach a point where release will come too late to prevent  
2 permanent injury or death.” *Id.*

3  
4 Despite this, Petitioner remains detained without proper medical supervision,  
5 care or treatment of his PSC. Petitioner remains in pain. Petitioner has made  
6 multiple requests for specialized medical attention due to his PSC, but these  
7 requests have gone unanswered. Petitioner has received *no treatment* for this  
8 deadly disease.

9 Petitioner’s PSC remains unaddressed and Petitioner’s health continues to  
10 substantially deteriorate.

11  
12 **b. Diabetes Improperly and Inadequately Treated Causing Serious Injury**

13 In addition to his liver condition, Petitioner suffers from severe, advanced  
14 Diabetes Mellitus requiring intensive daily management, including insulin therapy  
15 and weekly GLP-1 injections. *See Exhibit E; E-1.*

16 Dr. Miller indicates that Petitioner “requires precise, individualized dosing  
17 and frequent monitoring to adjust insulin and GLP-1 therapy,” and that “it is not  
18 medically reasonable or safe to expect that equivalent care can be replicated in a  
19 detention setting or through ad hoc medical oversight.” *Id See Exhibit E-1.*

20  
21 **c. Petitioner Denied Medically Necessary CPAP**

1           Petitioner is diagnosed with moderate-to-severe obstructive sleep apnea (OSA),  
2 which requires nightly CPAP therapy. In elderly patients with multiple chronic  
3 conditions, like Petitioner, untreated sleep apnea is associated with serious  
4 morbidity and increased mortality. Exhibit E.

5  
6           Dr. Miller notes that Petitioner’s inability to use a CPAP is causing  
7 deterioration which is “happening now.” This risks “increasing strain on heart and  
8 brain,” “cardiovascular stress,” and “increased fall risk”. He further warns that  
9 each additional week without CPAP increases the risk of “cardiac arrhythmias,  
10 heart attack, and stroke,” among other life threatening concerns. *Id.*

11           Knowing the importance of his CPAP machine, on December 13, 2025, Olia  
12 Majd, Petitioner’s daughter, mailed Petitioner his CPAP machine with delivery  
13 confirmation. Despite doing so, an operating CPAP has still not been provided to  
14 Petitioner despite multiple requests and inquiries.

15           Petitioner continues to be detained without his medically necessary CPAP  
16 and continues to suffers as a result.

17  
18           **d. Hypogonadism Untreated**

19           Petitioner also suffers from hypogonadism, requiring ongoing testosterone  
20  
21

1 replacement therapy. Dr. Miller notes that as a result, Petitioner is seeing  
2 “deterioration happening now.” Exhibit E-2. Complications arising from failure  
3 to receive testosterone “which is medically necessary” causes accelerated muscle  
4 wasting and loss of functional independence, worsening frailty and balance  
5 instability, increased risk of falls, fractures, and hospitalization, among other  
6 serious complications.

7  
8 Petitioner is not receiving *any* medical care or treatment related to his  
9 hypogonadism and continues to suffer as a result. Petitioner has requested this  
10 treatment, but has been denied medically necessary treatment.

11 **e. Severe Hearing Loss**

12 Petitioner also suffers from severe hearing loss. As a result, he has difficulty  
13 communicating with other people, including his family and attorney. The detention  
14 facility has been unable to accommodate Petitioner’s hearing loss, or provide him  
15 with hearing aids. Petitioner has requested accommodations, but has received  
16 none. Exhibit E-3.

17  
18 A complete list of Petitioner’s prescribed medications and dosing, as  
19 supervised by Dr. Miller, is attached as Exhibit E-4.  
20  
21

1  
2 **f. Indifference to Medical Conditions**

3 Prior to ICE’s decision to detain Petitioner, ICE was well aware of his  
4 medical history and complications. Indeed, ICE told Petitioner that they would not  
5 detain him due to his medical condition. Despite this, Petitioner was detained.  
6 During the course of his detention and until today, Petitioner has been told by  
7 medical practitioners inside the facility that he is at “high risk,” that the facility is  
8 unable to treat his medical conditions, and that because of this, they are  
9 recommending his release. But Petitioner remains detained.

10 Around January 5, Dr. Shehadi, the doctor on staff in Adelanto told  
11 Petitioner that he was “high risk” that he “could not even fly” and that he was  
12 requesting his release. As a result of this recommendation, Petitioner was told he  
13 was being released. Instead, he was transported to Otay Mesa. ICE indicated that  
14 he was transferred to Otay Mesa to “ensure he is receiving a high level of care that  
15 can be provided at that facility.” *See* Exhibit F, F-1, F-2.

16 Once Petitioner was transferred to Otay Mesa, instead of receiving care, he  
17 was placed in solitary confinement with no explanation for over 24 hours. On  
18 January 9, Petitioner saw Dr. Patterson, who told Petitioner that they have no  
19 hepatologist on site, and that they have no access to imagining or scans to address  
20

1 his PSC. Dr. Patterson also confirmed that there was also no GLP-1 medication or  
2 testosterone.

3  
4 Due to the facilities inability to treat Petitioner, and as a result of his serious  
5 medical issues, Dr. Patterson also recommended Petitioner's release. *Petitioner*  
6 *remains detained despite being told by two facility medical doctors that it is unsafe*  
7 *for him to remain detained.*

8 **g. Failure to Provide Requested Medical Documents**

9 As a result of the medical emergency that Petitioner is facing while detained,  
10 numerous requests were made for copies of Petitioner's medical documents. These  
11 requests were made directly by Petitioner and through Petitioner's counsel. ICE  
12 has failed to respond to these requests.

13  
14 Petitioner believes that information and notes within his medical file support  
15 his release, but are being deliberately withheld.

16 **C. Irreparable Harm to U.S. Citizen Partner and Daughter**

17  
18 Petitioner's detention does not stand in isolation and causes irreparable harm  
19 to his U.S. citizen partner, Carolyn Majd. Mrs. Majd is 74 years old, disabled, and  
20 relies solely on Petitioner for her daily care. She recently underwent spinal fusion  
21 surgery in July 2024, utilizes a walker, and has a history of falls. Following a

1 serious auto accident in 2023, she no longer drives and depends entirely on  
2 Petitioner for transportation to medical appointments, the pharmacy, and the  
3 grocery store. *See* Exhibit G.

4  
5 Mrs. Majd also suffers from Ulcerative Colitis, which requires stress  
6 management to prevent intestinal blockages; the stress of her partner's detention  
7 exacerbates her condition, evidenced by her multiple hospitalizations in early 2024.  
8 Petitioner is her only support system, and his continued detention leaves a  
9 vulnerable U.S. citizen without essential care. *Id.*

10 Petitioner's US citizen daughter also suffers as a result of her father's  
11 detention. She notes that her 77-year-old father serves as the primary source of  
12 physical and financial support for his partner, a handicapped United States citizen  
13 who relies on him for daily assistance. *See* Exhibit H, H-1, H-2. Ms. Majd  
14 declares that his detention has stripped this vulnerable family member of her  
15 essential caregiver, forcing Ms. Majd to assume these heavy responsibilities herself.  
16 *Id.* She notes that this sudden shift in caretaking duties has created significant  
17 hardship on her and effectively destabilized their family unit. *Id.*

18 **D. Iran Will Not Issue Travel Documents for Petitioner**  
19  
20  
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1 In addition to the 2004 letter from the Iranian Interest Section, Petitioner was  
2 told travel documents would not be issued. On January 2, 2026, Petitioner  
3 received a phone call from Ms. Mirzaei of the Iran Interests Section, who informed  
4 him that travel documents cannot be issued for his matter since he has no valid birth  
5 certificate. Ms. Mirzaei was then contacted through phone by counsel's office,  
6 requesting a letter stating the same, and she indicated she was not authorized to  
7 provide a letter but would explain the same to ICE.  
8

## 9 LEGAL FRAMEWORK

### 10 Post-Removal Order and Detention

11 Under the Immigration and Nationality Act (INA), a noncitizen subject to a  
12 final order of removal is generally detained during a 90-day "removal period." *See*  
13 8 U.S.C. § 1231(a)(1)(A). Detention during this period is typically mandatory. *See*  
14 § 1231(a)(2). However, if removal is not effectuated during the removal period,  
15 continued detention is permissible only while removal remains reasonably  
16 foreseeable. *See* § 1231(a)(6).  
17

18 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that 8  
19 U.S.C. § 1231(a)(6) does not authorize indefinite detention. Instead, the Court  
20 interpreted the statute in light of constitutional due process and established a  
21

1 presumptive six-month limit on post-order detention. After that period, if the  
2 noncitizen shows “good reason to believe that there is no significant likelihood of  
3 removal in the reasonably foreseeable future,” the burden shifts to the government  
4 to rebut that showing. *Id.* at 701.

5  
6 The Court later affirmed in *Clark v. Martinez*, 543 U.S. 371 (2005), that this  
7 limitation applies universally, regardless of the underlying reasons for the  
8 government's inability to remove the noncitizen. Where removal is not reasonably  
9 foreseeable—whether due to diplomatic barriers, lack of travel documents, or other  
10 practical impossibilities—continued detention violates both the statute and the  
11 Constitution.

12 In some circumstances, federal immigration authorities can continue to  
13 detain an alien beyond the initial removal period. Specifically, section 1231(a)(6)  
14 allows the government to detain certain enumerated classes of immigrants—  
15 including those ordered removed due to criminal convictions—for more than 90  
16 days. *Id.* 8 U.S.C. § 1231(a)(6). In *Zadvydas*, 533 U.S. 678, the Court addressed the  
17 question of how long the government can detain an immigrant pursuant to section  
18 1231(a)(6).

19  
20 The *Zadvydas* Court began by rejecting the government’s position that  
21 section 1231(a)(6) permitted indefinite detention following the initial removal

1 period. *See id.* It held that “[a] statute [that] permit[ed] indefinite detention of an  
2 alien would raise a serious constitutional problem,” *id.* at 690, and instead  
3 determined that section 1231(a)(6) “implicitly limits an alien’s detention to a period  
4 reasonably necessary to bring about that alien’s removal,” *id.* at 679. Thus, “once  
5 removal is no longer reasonably foreseeable, continued detention is no longer  
6 authorized by [section 1231(a)(6)].” *Id.* at 699.

7  
8 The Court went on to institute a framework that would govern future  
9 challenges to section 1231(a)(6) detention. “[F]or the sake of uniform  
10 administration in the federal courts,” the Court found that post-removal detention  
11 was “presumptively reasonable” for the first six months. *Id.* at 700-01. When that  
12 “presumptively reasonable” six-month period ends, aliens seeking release from  
13 custody bear the initial burden of providing “good reason to believe that there is no  
14 significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.  
15 Once that initial showing is made, the burden shifts to the government to respond  
16 with evidence sufficient to rebut it. *See id.*

17 Upon release from custody, a noncitizen subject to a final order of removal  
18 must comply with certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). The  
19 revocation of that release is governed by 8 C.F.R. § 241.13(i), which authorizes  
20 ICE to revoke a noncitizen’s release for purposes of removal.

1 ICE may revoke a noncitizen’s release and return them to ICE custody due to  
2 failure to comply with any of the conditions of release, 8 C.F.R. § 241.13(i)(1), or  
3 if, “on account of changed circumstances, the Service determines that there is a  
4 *significant likelihood* that the [noncitizen] may be removed in the reasonably  
5 foreseeable future,” *id.* § 241.13(i)(2) (emphasis added).  
6

7 Upon such a determination by ICE to detain, “the alien will be notified of the  
8 reasons for revocation of his or her release. [ICE] will conduct an initial informal  
9 interview promptly after his or her return to [ICE] custody to afford the alien an  
10 opportunity to respond to the reasons for revocation stated in the notification. The  
11 [noncitizen] may submit any evidence or information that he or she believes shows  
12 there is no significant likelihood he or she be removed in the reasonably foreseeable  
13 future, or that he or she has not violated the order of supervision. The revocation  
14 custody review will include an evaluation of any contested facts relevant to the  
15 revocation and a determination whether the facts as determined warrant revocation  
16 and further denial of release.” *Id.* § 241.13(i)(3).

17 ICE’s decision to detain is governed by the factors laid out in 8 C.F.R. §  
18 241.13(f), including “the history of the [noncitizen’s] efforts to comply with the  
19 order of removal, the history of [ICE’s] efforts to remove [noncitizens] to the  
20 country in question or to third countries, including the ongoing nature of [ICE’s]  
21

1 efforts to remove [the noncitizen] and the [noncitizen’s] assistance with those  
2 efforts, the reasonably foreseeable results of those efforts, and the views of the  
3 Department of State regarding the prospects for removal of [noncitizens] to the  
4 country or countries in question.” *See also Phan v. Beccerra*, No. 2:25-CV-01757-  
5 DC-JDP, 2025 WL 1993735, at \*3 (E.D. Cal. July 16, 2025).

6  
7 A court may not make this determination in the first instance but may review  
8 it for compliance with the regulation. *See id.*; *Nguyen v. Hyde*, No. 25-cv-11470-  
9 MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025) (citing *Kong v. United*  
10 *States*, 62 F.4th 608, 620 (1st Cir. 2023)).

11 **Third Country Removals**

12  
13 The immigration laws delineate the proper procedures by which a country  
14 may be designated for removal. *See* 8 U.S.C. § 1231(b). These procedures move in  
15 incremental steps.

16 First, an individual with a removal order may designate the country to which  
17 they want to be removed, and the government shall remove the alien to that  
18 country. *Id.* § 1231(b)(2)(A). The government may disregard that designation if (1)  
19 the individual fails to designate a country promptly; (2) the government of that  
20 country does not inform the U.S. government finally, within 30 days after the date

1 the U.S. government first inquires, whether the government will accept the  
2 individual into that country; (3) the government of the country is not willing to  
3 accept the alien into the country; or (4) the government decides that removing the  
4 individual to that country is prejudicial to the United States. *Id.* § 1231(b)(2)(C).

5  
6 Second, if the individual is not removed to the country they designated under  
7 section 1231(b)(2)(A), the government shall remove the individual to the country of  
8 which the individual is a “subject, national, or citizen” unless the government of  
9 that country does not inform the U.S. government or the individual within 30 days  
10 after first inquiry or within another reasonable period of time whether the  
11 government will accept the individual into the country or the country is not willing  
12 to accept the individual into the country. *Id.* § 1231(b)(2)(D).

13 Third, if the individual is not removed to either the country of their  
14 designation or the country of which they are a subject, national, or citizen then the  
15 government shall remove them to any of the following options: (1) the country  
16 from which the individual was admitted to the United States; (2) the country in  
17 which is located the foreign port from which the individual left for the United  
18 States or for a foreign territory contiguous to the United States; (3) the country in  
19 which the individual resided before the individual entered the United States and  
20 from which the individual entered the United States; (4) the country in which the

1 individual was born; or (5) the country in which the individual's birthplace is  
2 located when the individual was ordered removed. *Id.* § 1231(b)(2)(E). Only "[i]f  
3 impracticable, inadvisable, or impossible" to remove the individual to any of these  
4 countries may the government remove the individual to "another country whose  
5 government will accept [them] into that country." *Id.* § 1231(b)(2)(E)(vii).  
6

7 Notwithstanding any of these procedures, the statute prohibits removal to a  
8 third country where a person may be persecuted or tortured, a form of protection  
9 known as withholding of removal. *See id.* § 1231(b)(3)(A). The government "may  
10 not remove [a noncitizen] to a country if the Attorney General decides that the  
11 [noncitizen's] life or freedom would be threatened in that country because of the  
12 [noncitizen's] race, religion, nationality, membership in a particular social group, or  
13 political opinion." *Id.*; see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of  
14 removal is a mandatory protection.

15 Similarly, Congress codified protections enshrined in the Convention  
16 Against Torture prohibiting the government from removing a person to a country  
17 where they would be tortured. See FARRA 2681-822 (codified as 8 U.S.C. § 1231  
18 note) ("It shall be the policy of the United States not to expel, extradite, or  
19 otherwise effect the involuntary return of any person to a country in which there are  
20 substantial grounds for believing the person would be in danger of being subjected  
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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); *see also 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) (“All removals to third countries, i.e., removal to a country other than the country or countries designated during immigration proceedings as the country of removal on the non-citizen’s order of removal, must be preceded by written notice to both the non-citizen and the non-citizen’s counsel in a language the non-citizen can understand.” (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process requires notice to the noncitizen of the right to apply for asylum and withholding to the country where they will be removed). The government must be able to show evidence that the third country will accept the individual into that country. *See Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004) (when “at the time the government proposes a country of

1 removal pursuant to § 1231(b)(2)(E)(vii), the government must be able to show that  
2 the proposed country will accept the [individual]).

3  
4 Due process also demands that the government “ask the noncitizen whether  
5 he or she fears persecution or harm upon removal to the designated country and  
6 memorialize in writing the noncitizen’s response. This requirement ensures DHS  
7 will obtain the necessary information from the noncitizen to comply with section  
8 1231(b)(3) and avoids [a dispute about what the officer and noncitizen said].”  
9 *Aden*, 409 F. Supp. 3d at 1019; *cf. D.V.D.*, 2025 WL 1453640, at \*1 (“Following  
10 notice, the individual must be given a meaningful opportunity, and a minimum of  
11 ten days, to raise a fear-based claim for CAT protection prior to removal.”  
12 (emphasis omitted)).

13 If the noncitizen claims fear, measures must be taken to ensure that the  
14 noncitizen can seek asylum, withholding, and relief under CAT before an  
15 immigration judge in reopened removal proceedings. *Cf. D.V.D.*, 2025 WL  
16 1453640, at \*1 (requiring the government to move to reopen the noncitizen’s  
17 immigration proceedings if the individual demonstrates “reasonable fear” and to  
18 provide “a meaningful opportunity, and a minimum of fifteen days, for the non-  
19 citizen to seek reopening of their immigration proceedings” if the noncitizen is  
20 found to not have demonstrated “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019

1 (requiring notice and time for a respondent to file a motion to reopen and seek  
2 relief).

3  
4 Finally, notice of the country to which the noncitizen will be removed must  
5 not be “last minute” because that would deprive an individual of a meaningful  
6 opportunity to apply for fear-based protection from removal. *Andriasian*, 180 F.3d  
7 at 1041. They must have time to prepare and present relevant arguments and  
8 evidence and to seek reopening of their removal case.

9 **Punitive Removal Practices**

10 It is bedrock law that the U.S. government may not impose or inflict an  
11 infamous punishment for violations of civil immigration law. In 1896, the U.S.  
12 Supreme Court ruled that while deportation itself was not a punishment, the  
13 government could not attach punitive conditions to deportation—in that case,  
14 imprisonment at hard labor—absent a criminal charge, trial in a court of law, and  
15 the protections of the Fifth, Sixth, and Eighth Amendments. *Wong Wing v. United*  
16 *States*, 163 U.S. 228, 237 (1896).

17  
18 Importantly, the Court drew a distinction between deportation, which the  
19 Court reasoned is “not a ‘banishment,’ in the sense in which that word is often  
20 applied to the expulsion of a citizen from his country by way of punishment,” and

1 government actions aimed at punishment, such as imprisonment at hard labor in  
2 addition to deportation. *Id.* at 236. The Court explained that deportation “is but a  
3 method of enforcing the return to his own country of an alien who has not complied  
4 with the conditions upon the performance of which the government of the nation,  
5 acting within its constitutional authority and through the proper departments, has  
6 determined that his continuing to reside here shall depend.” *Id.* (quoting *Fong Yue*  
7 *Ting v. United States*, 149 U.S. 730 (1893)). But the Court admonished that the  
8 government may not “declare unlawful residence within the country to be an  
9 infamous crime, punishable by deprivation of liberty and property . . . unless  
10 provision were made that the fact of guilt should first be established by a judicial  
11 trial.” *Id.* at 237.

12  
13         Deportation of individuals to third countries to be imprisoned or harmed is  
14 unquestionably punishment.

15         **No Significant Likelihood of Removal to Iran**

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17         In order to detain an individual placed on an Order of Supervision, it must be  
18 “on account of *changed circumstances* . . . a *significant likelihood* that the alien  
19 may be removed.” 8 C.F.R. § 214.14(i)(2). No changed circumstances or  
20 significant likelihood of removal exist.

1 In a June 4, 2025 Presidential Proclamation, it is noted that “Iran is a state  
2 sponsor of terrorism. Iran *regularly fails to cooperate with the United States*  
3 Government in identifying security risks, is the source of significant terrorism  
4 around the world, *and has historically failed to accept back its removable*  
5 *nationals.*” See [https://www.whitehouse.gov/presidential-  
9](https://www.whitehouse.gov/presidential-<br/>6 actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-<br/>7 states-from-foreign-terrorists-and-other-national-security-and-public-safety-<br/>8 threats/)

10 In December 2025, the executive order was continued through a subsequent  
11 proclamation entitled “Restricting and Limiting the Entry of Foreign Nationals to  
12 Protect the Security of the United States” for the same reasons with regard to Iran.  
13 See [https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-  
15](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-<br/>14 limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)  
16 Iran continues to be a recalcitrant country that does not accept deportees.

### 17 **Section 504 of the Rehabilitation Act**

18 Under Section 504, found at 29 USCS § 794, a federally funded agency  
19 illegally discriminates against individuals with disabilities when it fails to provide  
20 “meaningful access” to its benefits, programs, or services. *Alexander v. Choate*,  
21 469 U.S. 287, 301 (1985); *see also Tennessee v. Lane*, 541 U.S. 509, 531 (2004).

1 Individuals are entitled to accommodation under Section 504 if they have a  
2 disability—a “physical or mental impairment that substantially limits one or more  
3 major life activities.” 42 U.S.C. § 12102(1).  
4

5 To bring a Section 504 claim, Petitioner must show that “(1) he is an  
6 individual with a disability; (2) he is otherwise qualified to receive the benefit; (3)  
7 he was denied the benefits of the program solely by reason of his disability; and (4)  
8 the program receives federal financial assistance.” *Updike v. Multnomah Cnty.*, 870  
9 F.3d 939, 949 (9th Cir. 2017) (quoting *Duvall v. Cty. of Kitsap*, 260 F.3d 1124,  
10 1135 (9th Cir. 2001)). Public entities have an “affirmative obligation” to make  
11 benefits, services, and programs accessible to people with disabilities. *Id.*

12 Petitioner is an individual with a disability, given that he has multiple  
13 chronic and serious illnesses. *See, e.g., Ilsung v. Santos*, 2012 WL 1969061, at \*4  
14 (E.D. Cal. May 31, 2012) (noting diabetes is considered a disability under federal  
15 law). Petitioner requests his disability be accommodated so that he can receive the  
16 “benefit,” or in other words in this context, participation in the removal process.  
17

18 Section 504 requires federally funded programs to remedy a lack of  
19 meaningful access by providing reasonable accommodation. A proposed  
20 accommodation is reasonable if it does not fundamentally alter the nature of the  
21 federal program or impose an undue hardship. Reasonable accommodations

1 should have been afforded to Petitioner in connection with his OSUP and  
2 immigration proceedings. It would not have been a “fundamental alteration” nor an  
3 “undue financial or administrative burden” for ICE to follow the law, not detain  
4 Petitioner without notice or warning and not act in a manner that completely  
5 disregarded the fact that he is a disabled individual. *Alexander*, 469 U.S. 287, 299-  
6 300, 302 n.21 (1985); *see also* 28 C.F.R. § 35.130(b)(1)(7)(i); 28 C.F.R. §  
7 35.150(a)(3); 6 CFR § 15.30 and § 15.50.

8  
9 It is the government’s burden to prove that an accommodation is not  
10 necessary because it either poses a “fundamental alteration” or “undue financial or  
11 administrative burden.” *Id.* A fundamental alteration is one that changes an  
12 “essential aspect” of the program. *Cf. PGA Tour, Inc. v. Martin*, 532 U.S. 661-663  
13 (2001) (discussing the distinction between a fundamental alteration and peripheral  
14 features of a program for a disabled golfer requesting the use of a golf cart.)

15 **CLAIMS FOR RELIEF**

16 **COUNT ONE**

17 **Violation of Fifth Amendment Right to Due Process**

18 The allegations in the above paragraphs are re-alleged and incorporated herein by  
19 reference.

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1. Petitioner has been subject to a final order of removal since. The 90 day removal period applies to the 90 days immediately following the removal order. That period has long passed. The government has had ample time to effectuate removal but has failed to do so.
2. Respondent has failed to identify a third country willing to accept Petitioner, and there is no significant likelihood of removal in the reasonably foreseeable future.
3. Petitioner’s continued detention beyond the 90-day removal period authorized by 8 U.S.C. § 1231(a), violates the Due Process Clause of the Fifth Amendment. The government’s failure to justify continued detention with concrete evidence of likely removal renders this ongoing deprivation of liberty unconstitutional under *Zadvydas v. Davis*, 533 U.S. 678 (2001).
4. Accordingly, Petitioner’s continued detention violates his substantive due process rights under the Fifth Amendment to the United States Constitution.

**COUNT TWO**

**Third Country Removal in Violation of 8 U.S.C. § 1231, Convention Against Torture, Implementing Regulations and the Administrative Procedures Act**

The allegations in the above paragraphs are re-alleged and incorporated herein by reference.

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1. The Fifth Amendment, the INA, the CAT, and implementing regulations mandate meaningful notice and opportunity to respond to any attempt to remove Petitioner to a third country in reopened removal proceedings. They also require an opportunity for Petitioner to make a fear-based claim against removal to a third country in reopened removal proceedings. Respondents' policy for third country removals violates all of these laws because it directs ICE agents to remove individuals to third countries without any notice or process at all where diplomatic assurances are received and, where no diplomatic assurances are received, to provide flagrantly insufficient notice (6-24 hours) and opportunity to respond, in violation of the statute, regulations, and Fifth Amendment.
2. Prior to any third country removal, Petitioner must be provided with constitutionally and statutorily compliant notice and an opportunity to respond and contest that removal if he has a fear of persecution or torture in that country in reopened removal proceedings.

**COUNT THREE**

**Unlawful Detention in Violation of the Fifth Amendment Due Process Clause, Immigration and Nationality Act 8 CFR §§ 241.13 and 241.4, and the Administrative Procedure Act (APA)**

1. The allegations in the above paragraphs are re-alleged and incorporated herein by reference.

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2. Respondent’s detention of Petitioner violates his rights guaranteed by the Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA, 8 U.S.C. § 1231(a); implementing regulations, 8 C.F.R. §§ 241.13 and 241.4; and the APA.

3. Petitioner should be released. “If removal is not reasonably foreseeable”—as is the case here—detention is “unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699-700 (citing 8 U.S.C. § 1231(a)(6)).

4. Neither the statute nor the Constitution authorizes Petitioner’s continued detention where removal is not likely.

5. The six month presumption in *Zadvydas* is rebuttable. Petitioner can rebut the presumption that there “no significant likelihood of removal in the reasonably foreseeable future.” *Id.*; *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (CD. Cal. 2018) (“The Supreme Court in *Zadvydas* outlined a ‘guide’ for approaching these detention challenges . . . not a prohibition on claims challenging detention less than six months.”)

6. Respondent violated governing regulations for revoking Petitioner’s Order of Supervision. Petitioner has duly complied with the conditions of his supervised release, including attending check-ins and providing the

1 information and documentation requested of him. His release may be  
2 revoked only if there is a “*significant likelihood* that the alien may be  
3 removed.” 8 C.F.R. § 241.13(i)(2) (emphasis added). Upon such a  
4 determination, several procedural steps are required to revoke release, *id.* §  
5 241.13(i)(3), none of which were followed here. Respondents are required to  
6 follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*,  
7 347 U.S. 260, 268 (1954). Petitioner’s removal is not significantly likely to  
8 occur in the reasonably foreseeable future. Since his removal order, the  
9 government has been unable to remove him. Petitioner has no valid  
10 passport, travel document or birth certificate. There is no evidence that Iran  
11 has or will issue travel documents for Petitioner or that he is even eligible to  
12 be removed. Accordingly, Respondents cannot meet their burden to show  
13 that removal is reasonably foreseeable, and this Court should order his  
14 immediate release.

15  
16 **COUNT FOUR**

17 **Punitive Third Country Banishment**

18 **Violation of Fifth and Eighth Amendments**

- 19 1. The allegations in the above paragraphs are re-alleged and incorporated  
20 herein by reference.

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2. Under the Fifth Amendment of the U.S. Constitution, no person shall “be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury;” “be subject for the same offence to be twice put in jeopardy of life or limb;” or “be deprived of life, liberty, or property, without due process of law.”
3. The Eighth Amendment provides that no “cruel and unusual punishments” may be inflicted.
4. The U.S. Supreme Court long ago held that the government may not inflict upon individuals an “infamous punishment” in addition to deportation, as a penalty for an immigration violation, absent criminal charges, a judicial trial, and attendant constitutional protections. *Wong Wing*, 163 U.S. at 236-38.
5. Petitioner was convicted and completed any sentence for his criminal conviction. His convictions made him removable from the United States, but his conviction does not authorize the government to inflict, as a matter of executive policy and discretion, additional punishment on him. Respondents’ third country removal program is punitive in nature and execution. The government has arranged for third countries to receive deportees and imprison them on arrival, possibly indefinitely and often in abhorrent conditions. It has selected countries notorious for human rights abuses and

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instability for third country removal arrangements. It has targeted individuals with criminal convictions for third country removals where they will be imprisoned and harmed and publicly broadcast those removals to demonize and dehumanize the individuals subjected to these practices and strike fear in the immigrant community to send a message of retribution and deterrence. Respondent’s third country removal program is more than a publicity stunt. The hundreds of individuals who have already been subjected to it, have been banished in foreign prisons upon arrival without charge and often without communication with the outside world, including their families and lawyers. Respondents may not subject Petitioner to its third country removal program designed to impose a severe punishment on its subjects. *See id.* Such conduct “shocks the conscience” under Fifth Amendment substantive due process, is cruel and unusual punishment, and may not be imposed without charge and a judicial trial.

- 6. Respondents may not seek to remove Petitioner to a third country under their punitive banishment policy and practices.

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**COUNT FIVE**

**Violation of the Rehabilitation Act § 504, 29 U.S.C. § 794**

1. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
2. Section 504 requires that reasonable accommodations be made for Petitioner’s disabilities in connection with his immigration proceedings.
3. To state a claim under the Rehabilitation Act, Petitioner must show that: (1) he is a qualified individual with a disability; (2) the defendant is subject to one of the Acts; and (3) he was denied the opportunity to participate in or benefit from the defendant’s services, programs, or activities, or was otherwise discriminated against by the defendant because of his disability.
4. Petitioner is disabled, Respondent is subject to the Act, and Petitioner was denied the opportunity to participate in a benefit or service of the Respondent, in that, his Order of Supervision was revoked without taking into consideration his medical conditions.
5. Section 504 requires that reasonable accommodations be made for Petitioner’s medical condition and disabilities in connection with his immigration proceedings. The government has violated Section 504 by



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5. Despite this knowledge, Respondents have failed to provide prescribed life-saving medication (insulin, GLP-1 injections, and testosterone), have refused to provide a necessary CPAP machine, and have failed to provide specialized hepatology oversight for his PSC.
6. This failure to provide essential medical care constitutes deliberate indifference, poses an immediate risk of irreparable harm or death, and renders Mr. Majd's continued detention unconstitutional.

**COUNT SEVEN**

**Violation of the Fifth Amendment Right to Due Process (Failure to Provide Medical Records and Access to Information)**

1. Petitioner incorporates by reference the allegations contained in the preceding paragraphs as if set forth fully herein.
2. The Fifth Amendment's Due Process Clause guarantees that individuals in civil immigration detention have a right to "a full and fair opportunity" to represent their interests, which includes access to their own medical records and documentation of their treatment (or lack thereof).

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3. Furthermore, the ICE Performance-Based National Detention Standards (PBNDS) and federal privacy laws require facilities to provide detainees and their authorized counsel with timely access to medical records upon request.
4. Mr. Majd and his counsel have made repeated requests for copies of his medical records, medication logs, and internal medical requests submitted to the facility's medical staff.
5. Respondents have ignored or refused these requests without any lawful justification.
6. By withholding these records, Respondents are actively obstructing Mr. Majd's ability to: Verify the accuracy of his treatment; Provide his external specialists with the data they need to assess his current risk of liver failure or medical conditions; and effectively petition this Court for relief from unconstitutional conditions of confinement.
7. This persistent withholding of information—while Mr. Majd's health is in a state of "high-risk" deterioration—constitutes an additional layer of deliberate indifference and a violation of his procedural and substantive due process rights.

**COUNT EIGHT**

1 **Violation of the Administrative Procedure Act (APA) (Agency Action**  
2 **Unlawfully Withheld – 5 U.S.C. § 706(1))**  
3

- 4 1. Petitioner incorporates by reference the allegations contained in the  
5 preceding paragraphs as if set forth fully herein.
- 6 2. The APA requires agencies to take “discrete agency actions” that they are  
7 legally required to perform.
- 8 3. Under the ICE’s Performance-Based National Detention Standards  
9 (PBNDS)—which govern the Otay Mesa Detention Facility—Respondents  
10 are required to maintain complete and accurate medical records and to  
11 provide detainees and their authorized representatives with access to those  
12 records upon request.
- 13 4. Specifically, the PBNDS Medical Care standard (Standard 4.3) mandates that  
14 “Detainees and their representatives shall be allowed to request and receive  
15 medical records pursuant to facility policy, which shall be communicated to  
16 the detainee. Detainees and their representatives may also request medical  
17 records through the detainee’s designated ICE officer.
- 18 5. Mr. Majd and his counsel have submitted repeated, formal requests for his  
19 medical records.  
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6. To date, Respondents have failed to produce these records. This is not a discretionary decision; it is a mandatory, ministerial duty that ICE has “unlawfully withheld” and “unreasonably delayed.”

7. The withholding of these records is particularly egregious because it prevents Mr. Majd from proving the “high-risk” nature of his health deterioration, thereby obstructing his right to seek judicial relief.

8. Because the lack of access to these records directly impacts Mr. Majd’s life and health, the delay is "unreasonable."

9. Petitioner requests that this Court exercise its authority under 5 U.S.C. § 706(1) to compel Respondents to immediately produce a complete copy of Mr. Majd’s medical file.

**PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Order Respondents to immediately release Petitioner from custody;
3. Order that Respondents may not re-detain Petitioner without first following the statutory and regulatory procedures for revocation of release and without

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first obtaining agreement from the country of removal and obtaining travel documents.

4. Order that Respondents may not remove or seek to remove Petitioner to a third country without notice and meaningful opportunity to respond in compliance with the statute and due process in reopened removal proceedings;

5. Order that Respondents may not remove Petitioner to any third country because Respondent’s third country removal program seeks to impose unconstitutional punishment on its subjects, including imprisonment and other forms of harm;

6. Award costs and reasonable attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

7. Order any and all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: **January 15, 2025**

*/s/ Ashkan Yekrangi*

Ashkan Yekrangi, Esq.  
*Counsel for Petitioner*

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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Kazem Majd, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 15<sup>th</sup> day of January, 2026.

s/Ashkan Yekrangi  
Ashkan Yekrangi

*Counsel for Petitioner*