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

12  
13 MILLON GEBREMEDHIN,<sup>1</sup>

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,  
21 JESUS ROCHA, Acting Field Office  
22 Director, San Diego Field Office,  
23 CHRISTOPHER LAROSE, Warden at  
24 Otay Mesa Detention Center,

25 Respondents.

CIVIL CASE NO.: '26CV0322 TWR DEB

**Petition for Writ  
of  
Habeas Corpus**

**[Civil Immigration Habeas,  
28 U.S.C. § 2241]**

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28 <sup>1</sup> Federal Defenders of San Diego, Inc., is filing the instant petition with provisional appointment under Chief Judge Order No. 134.

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## Table of Contents

<b>I.</b>	<b>Introduction .....</b>	<b>1</b>
<b>II.</b>	<b>Statement of Facts .....</b>	<b>2</b>
<b>III.</b>	<b>Legal Analysis.....</b>	<b>3</b>
	A. Claim One: Mr. Gebremedhin’s detention violates <i>Zadvydas</i> and 8 U.S.C. § 1231.....	3
	B. Claim Two: ICE failed to comply with its own regulations when it re-detained Mr. Gebremedhin, violating his rights under applicable regulations and due process.....	6
<b>IV.</b>	<b>This Court must hold an evidentiary hearing on any disputed facts.....</b>	<b>9</b>
<b>V.</b>	<b>Prayer for relief .....</b>	<b>9</b>

1 **I. Introduction**

2 Mr. Gebremedhin is a citizen of Ethiopia and a member of an ethnic  
3 minority group who entered the United States in November 2023 to seek asylum.  
4 He was released into the United States to allow him to affirmatively apply for  
5 asylum. Despite attending all his check-in appointment, ICE detained him in  
6 March 2025 without telling him why they were revoking their decision to release  
7 him. An immigration judge then ordered him removed on June 20, 2025, and he  
8 did not appeal. In the seven months since his order of removal, ICE has not been  
9 able to deport him to Ethiopia or any other country.

10 Mr. Gebremedhin’s detention violates his statutory and regulatory rights,  
11 *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment. Courts in this  
12 district have agreed in similar circumstances as to both of Mr. Gebremedhin’s  
13 claims. Specifically:

14 (1) *Zadvydas violatios*: Mr. Gebremedhin must be released under *Zadvydas*  
15 because the government cannot show that there is a “significant likelihood of  
16 removal in the reasonably foreseeable future.” *Id.* at 701. *See, e.g., Conchas-*  
17 *Valdez*, 2025 WL 2884822, No. 25-cv-2469-DMS (S.D. Cal. Oct. 6, 2025);  
18 *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept. 25, 2025)  
19 (granting habeas petitions releasing noncitizens due to *Zadvydas* violations).

20 (2) *Regulatory and due process violations*: Mr. Gebremedhin must also be  
21 released because ICE’s failure to follow its own regulations about notice and an  
22 opportunity to be heard violate due process. *See, e.g., Constantinovici v. Bondi*,  
23 \_\_ F. Supp. 3d \_\_, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10,  
24 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal.  
25 Sept. 15, 2025); *Gebremedhin v. Noem*, 2025 WL 2898977, No. 25-cv-2422-  
26 RBM-MSB, \*3–\*5 (S.D. Cal. Oct. 10, 2025); *Sun v. Noem*, 2025 WL 2800037,  
27 No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Gebremedhin v. Noem*,  
28 2025 WL 2770623, No. 25-cv-2334-JES, \*3 (S.D. Cal. Sept. 29, 2025); *Truong v.*

1 *Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025);  
2 *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D. Cal.  
3 Oct. 9, 2025) *Sphabmixay v. Noem*, 25-cv-2648-LL-VET (S.D. Cal. Oct. 30,  
4 2025); *Sayvongsa v. Noem*, 25-cv-2867-AGS-DEB (S.D. Cal. Oct. 31, 2025);  
5 *Thammavongsa v. Noem*, 25-cv-2836-JO-AHG (S.D. Cal. Nov. 3, 2025);  
6 *Phakeokoth v. Noem*, 25-cv-2817-RBM-SBC (S.D. Cal. Nov. 7, 2025);  
7 *Soryadvongsa v. Noem*, 25-cv-2663-AGS-DDL (S.D. Cal. Nov. 8, 2025) (all  
8 either granting temporary restraining orders releasing noncitizens, or granting  
9 habeas petitions outright, due to ICE regulatory violations during recent re-  
10 detentions of released noncitizens previously ordered removed).

11 This Court should grant this habeas petition and issue appropriate  
12 injunctive relief on both grounds.

## 13 **II. Statement of Facts**

14 Mr. Gebremedhin was born in Ethiopia and came to the United States in  
15 November 2023. Exhibit A at ¶ 1. He came because he is a member of an ethnic  
16 minority group, and he feared for his life. *Id.* Mr. Gebremedhin presented himself  
17 at the border and asked for asylum. *Id.* at ¶ 2. He was detained for one day and  
18 then released so he could pursue his affirmative asylum application. *Id.* at ¶ 2.

19 Although Mr. Gebremedhin complied with his check-in requirements, ICE  
20 redetained him in March 2025. *Id.* at ¶ 3. ICE did not tell him why they were  
21 revoking their decision to release him, nor did they give him an informal  
22 interview. *Id.* at ¶ 3. Instead, they placed him in removal proceedings before an  
23 immigration judge. *Id.* at ¶ 3.

24 On June 20, 2025, that judge ordered him removed, and Mr. Gebremedhin  
25 did not appeal the decision. *Id.* at ¶ 4. In the seven months since he was ordered  
26 removed, ICE has not been able to remove him to Ethiopia or any other country.  
27 *Id.* at ¶ 5.

28

1 **III. Legal Analysis.**

2 This Court should grant this petition and order Mr. Gebremedhin's  
3 immediate release. *Zadvydas v. Davis* holds that immigration statutes do not  
4 authorize the government to detain immigrants like Mr. Gebremedhin, for whom  
5 there is "no significant likelihood of removal in the reasonably foreseeable  
6 future." 533 U.S. 678, 701 (2001). And ICE failed to follow its own regulations  
7 requiring changed circumstances before re-detention, as well as a chance to  
8 promptly contest a re-detention decision. For either reason, this Court should  
9 order his immediate release.

10 **A. Claim One: Mr. Gebremedhin's detention violates *Zadvydas* and**  
11 **8 U.S.C. § 1231.**

12 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered  
13 a problem affecting people like Mr. Gebremedhin: Federal law requires ICE to  
14 detain an immigrant during the "removal period," which typically spans the first  
15 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After  
16 that 90-day removal period expires, detention becomes discretionary—ICE may  
17 detain the migrant while continuing to try to remove them. *Id.* § 1231(a)(6).  
18 Ordinarily, this scheme would not lead to excessive detention, as removal  
19 happens within days or weeks. But some detainees cannot be removed quickly.  
20 Perhaps their removal "simply require[s] more time for processing," or they are  
21 "ordered removed to countries with whom the United States does not have a  
22 repatriation agreement," or their countries "refuse to take them," or they are  
23 "effectively 'stateless' because of their race and/or place of birth." *Kim Ho Ma v.*  
24 *Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances,  
25 detained immigrants can find themselves trapped in detention for months, years,  
26 decades, or even the rest of their lives. If federal law were understood to allow for  
27 "indefinite, perhaps permanent, detention," it would pose "a serious constitutional  
28 threat." *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the

1 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.  
2 *Id.* at 689.

3 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to  
4 detain an immigrant for 180 days after his or her removal order becomes final.  
5 After those 180 days have passed, the immigrant must be released unless his or  
6 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six  
7 months have passed, the petitioner must only make a prima facie case for relief—  
8 there is “good reason to believe that there is no significant likelihood of removal  
9 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the  
10 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*

11 Further, even before the 180 days have passed, the immigrant must still be  
12 released if he *rebutts* the presumption that his detention is reasonable. *See, e.g.,*  
13 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases  
14 on rebutting the *Zadvydas* presumption before six months have passed); *Zavvar v.*  
15 *Scott*, Civil No. 25-2104-TDC, 2025 WL 2592543, \*6 (D. Md. Sept. 8, 2025)  
16 (finding the presumption rebutted for a person who was immediately released  
17 after being ordered removed and, years later, re-detained for less than six months).

18 Mr. Gebremedhin can make all the threshold showings needed to prove his  
19 *Zadvydas* claim and shift the burden to the government.

20 First, the six-month grace period has ended. The *Zadvydas* grace period is  
21 linked to the date the final order of removal is issued. It lasts for “*six months* after  
22 a final order of removal—that is, *three months* after the statutory removal period  
23 has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001); *see*  
24 *also* 8 U.S.C. § 1231(a)(1)(B) (linking the statutory removal period to issuance of  
25 the final order and other proceedings associated with the original removal order).

26 Here, Mr. Gebremedhin’s order of removal was entered in June 20, 2025.  
27 Exh. A at ¶ 2. Accordingly, his 90-day removal period began then. 8 U.S.C.  
28 § 1231(a)(1)(B). The *Zadvydas* grace period thus expired on December 20, 2025,

1 three months after the removal period ended. *See, e.g., Tadros v. Noem*, 2025 WL  
2 1678501, No. 25-cv-4108(EP), \*2–\*3.

3 This Court uses a burden-shifting framework to evaluate a *Zadvydas* claim.  
4 At the first stage of the framework, Mr. Gebremedhin must “provide[] good  
5 reason to believe that there is no significant likelihood of removal in the  
6 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard can be  
7 broken down into three parts.

8 **“Good reason to believe.”** The “good reason to believe” standard is a  
9 relatively forgiving one. “A petitioner need not establish that there exists no  
10 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL  
11 10714999, at \*3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to  
12 believe’ . . . place a burden upon the detainee to demonstrate no reasonably  
13 foreseeable, significant likelihood of removal or show that his detention is  
14 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,  
15 2020 WL 3972319, at \*3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401  
16 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:  
17 Petitioners need only give a “good reason”—not prove anything to a certainty.

18 **“Significant likelihood of removal.”** This component focuses on whether  
19 Mr. Gebremedhin will likely be removed: Continued detention is permissible only  
20 if it is “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*,  
21 533 U.S. at 701. This inquiry targets “not only the *existence* of untapped  
22 possibilities, but also [the] probability of *success* in such possibilities.” *Elashi v.*  
23 *Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In  
24 other words, even if “there remains *some* possibility of removal,” a petitioner can  
25 still meet its burden if there is good reason to believe that successful removal is  
26 not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL  
27 31520362, at \*4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

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1           **“In the reasonably foreseeable future.”** This component of the test  
2 focuses on when Mr. Gebremedhin will likely be removed: Continued detention is  
3 permissible only if removal is likely to happen “in the reasonably foreseeable  
4 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s  
5 removal efforts. If the Court has “no idea of when it might reasonably expect  
6 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal  
7 is likely to occur—or even that it might occur—in the reasonably foreseeable  
8 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3  
9 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL  
10 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d  
11 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr.  
12 Gebremedhin “would *eventually* receive” a travel document, he can still meet his  
13 burden by giving good reason to anticipate sufficiently lengthy delays. *Younes v.*  
14 *Lynch*, 2016 WL 6679830, at \*2 (E.D. Mich. Nov. 14, 2016).

15           Here, Mr. Gebremedhin’s post-removal detention exceeds the six-month  
16 period. Thus, there is good reason to believe that there is not a significant  
17 likelihood of removal in the reasonably foreseeable future. Because Mr.  
18 Gebremedhin has met his initial burden, the burden shifts to the government to  
19 prove a “significant likelihood of removal in the reasonably foreseeable future”;  
20 otherwise, Mr. Gebremedhin must be released. *Zadvydas*, 533 U.S. at 701.

21           **B. Claim Two: ICE failed to comply with its own regulations when**  
22           **it re-detained Mr. Gebremedhin, violating his rights under**  
23           **applicable regulations and due process.**

24           Two regulations establish the process due to someone who is re-detained in  
25 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to  
26 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping  
27 framework to persons released upon good reason to believe that they will not be  
28 removed in the reasonably foreseeable future, as Mr. Gebremedhin was. *See Phan*  
*v. Noem*, 2025 WL 2898977, No. 25-CV-2422-RBM-MSB, \*3–\*5 (S.D. Cal. Oct.

1 10, 2025) (explaining this regulatory framework and granting a habeas petition for  
2 ICE’s failure to follow these regulations for a refugee of Vietnam who entered the  
3 United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL  
4 2646165 at \*2 (same as to an Iranian national).

5 These regulations permit an official to “return [the person] to custody” only  
6 when the person “violate[d] any of the conditions of release,” 8 C.F.R.  
7 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official  
8 “determines that there is a significant likelihood that the alien may be removed in  
9 the reasonably foreseeable future,” and makes that finding “on account of  
10 changed circumstances,” 8 C.F.R. § 241.13(i)(2).

11 No matter the reason for re-detention, the re-detained person is entitled to  
12 certain procedural protections. For one, “[u]pon revocation,’ the noncitizen ‘will  
13 be notified of the reasons for revocation of his or her release or parole.’” *Phan*,  
14 2025 WL 2898977 at \*3, \*4 (quoting §§ 241.4(l)(1), 241.13(i)(3)). Further, the  
15 person “‘will be afforded an initial informal interview promptly after his or her  
16 return’ to be given ‘an opportunity to respond to the reasons for revocation stated  
17 in the notification.’” *Id.*

18 In the case of someone released under § 241.13(i), the regulations also  
19 explicitly require the interviewer to allow the re-detained person to “submit any  
20 evidence or information that he or she believes shows there is no significant  
21 likelihood he or she be removed in the reasonably foreseeable future, or that he or  
22 she has not violated the order of supervision.” § 241.13(i)(3).

23 ICE is required to follow its own regulations. *United States ex rel. Accardi*  
24 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); see *Alcaraz v. INS*, 384 F.3d 1150,  
25 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to  
26 abide by certain internal policies is well-established.”). A court may review a re-  
27 detention decision for compliance with the regulations, and “where ICE fails to  
28 follow its own regulations in revoking release, the detention is unlawful and the

1 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at \*4  
2 (collecting cases); *accord Phan*, 2025 WL 2898977 at \*5.

3 ICE followed none of its regulatory prerequisites to re-detention here.

4 First, ICE did not identify a proper reason under the regulations to re-detain  
5 Mr. Gebremedhin. Mr. Gebremedhin was not returned to custody because of a  
6 conditions violation, and there was apparently no determination before or at his  
7 arrest that there are “changed circumstances” such that there is “a significant  
8 likelihood that [Mr. Gebremedhin] may be removed in the reasonably foreseeable  
9 future.” 8 C.F.R. § 241.13(i)(2).

10 Second, ICE did not notify Mr. Gebremedhin of the reasons for his re-  
11 detention upon revocation of release. *See* 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). He  
12 was re-detained in March 2025. Exh. A at ¶ 3. As he has explained, “[t]hey did  
13 not tell me why they were revoking their decision to release me.” *Id.* at ¶ 4.

14 Third, Mr. Gebremedhin does not believe he received an informal interview  
15 where an officer explained the purported “changed circumstances” underlying his  
16 revocation. “Simply to say that circumstances had changed or there was a  
17 significant likelihood of removal in the foreseeable future is not enough.” *Sarail*  
18 *A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673, at \*3 (D. Minn. Sept. 3, 2025).  
19 Rather, “Petitioner must be told *what* circumstances had changed or *why* there  
20 was now a significant likelihood of removal in order to meaningfully respond to  
21 the reasons and submit evidence in opposition, as allowed under § 241.13(i)(3).”  
22 *Id.* By “identif[ying] the category—‘changed circumstances’—but fail[ing] to  
23 notify [Petitioner] of the reason—the circumstances that changed and created a  
24 significant likelihood of removal in the reasonably foreseeable future—[ICE]  
25 failed to follow the relevant regulation.” *Id.* This failure to identify any changed  
26 circumstances also means he has he been afforded a meaningful opportunity to  
27 respond to the reasons for revocation or submit evidence rebutting his re-  
28 detention. Exh. A at ¶ 3.

1 “[B]ecause officials did not properly revoke petitioner’s release pursuant to  
2 the applicable regulations, that revocation has no effect, and [Mr. Gebremedhin]  
3 is entitled to his release (subject to the same Order of Supervision that governed  
4 his most recent release).” *Liu*, 2025 WL 1696526, at \*3.

5 **IV. This Court must hold an evidentiary hearing on any disputed facts.**

6 Resolution of a prolonged-detention habeas petition may require an  
7 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).  
8 Mr. Gebremedhin hereby requests such a hearing on any material, disputed facts.

9 **V. Prayer for relief**

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

- 11 1. Order and enjoin Respondents to immediately release Petitioner from  
12 custody;
- 13 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.  
14 § 1231(a)(6) unless and until Respondents obtain a travel document for  
15 his removal;
- 16 3. Enjoin Respondents from re-detaining Petitioner without first following  
17 all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other  
18 applicable statutory and regulatory procedures;
- 19 4. Order all other relief that the Court deems just and proper.

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Respectfully submitted,

Dated: January 20, 2026

s/ Kara Hartzler  
Federal Defenders of San Diego, Inc.  
Attorneys for Mr. Gebremedhin  
Email: kara\_hartzler@fd.org

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**Proof of Service**

I, the undersigned, caused to be served the within Petition for Writ of Habeas Corpus by email, at the request of Janet Cabral, Chief of the Civil Division, to:

U.S. Attorney’s Office, Southern District of California  
Civil Division  
USACAS.Habeas2241@usdoj.gov

Date: January 20, 2026 /s/ Kara Hartzler  
Kara Hartzler