

Notice of Supplemental Evidence

Case No. 26CV0272 RBM VET

Your Honor, Respondents have not articulated any national security basis for my detention and have made no reference to my past military service. To avoid any speculation, misunderstanding, or mischaracterization, I respectfully submit this supplemental evidence to clarify that my service was compulsory, non-operational, and remote in time.

I, Mohammad Hassan Yousefi, as Petitioner proceeding pro se (without counsel), respectfully submit this Notice of Supplemental Evidence in support of my Petition for Writ of Habeas Corpus and request for immediate release.

1. No National Security Allegation by ICE.

Petitioner notes that, in Respondents' Return in Opposition, ICE has not articulated any national security basis for his detention and has made no allegation that Petitioner poses a security risk, has engaged in violence, or has provided material support to any terrorist organization.

2. Purpose of This Supplemental Submission.

Although ICE has not relied on Petitioner's past military service as a basis for detention, Petitioner submits this supplemental evidence to complete the record, avoid any speculation, and prevent any misinterpretation of his background.

3. Nature of Petitioner's Military Service.

Petitioner respectfully explains that:

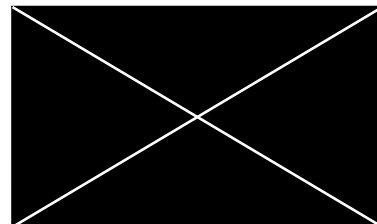
- His military service was compulsory and non-volitional, as required under Iranian law.
- He did not volunteer for service, and refusal to serve could have resulted in criminal prosecution.
- His role was non-operational, non-combat, and non-security related, limited solely to athletic and physical training activities.
- He held no command, enforcement, intelligence, or operational position of any kind.
- His service occurred approximately twenty-four (24) years ago, long before the 2019 designation of the IRGC as a Foreign Terrorist Organization.

4. Requirement of Individualized Assessment.

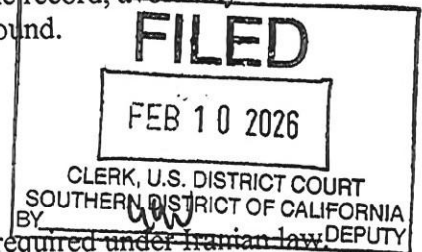
Petitioner submits that even if ICE were to consider his past service, the Constitution and immigration law require an individualized assessment based on actual conduct and intent, rather than assumptions based on compulsory service decades ago.

Petitioner submits this supplemental evidence in good faith, solely to complete and clarify the record, and respectfully maintains that his continued detention is unlawful.

Mohammad Hassan Yousefi  
Pro-se



02/08/2026



**DECLARATION OF MOHAMMAD HASSAN YOUSEFI**  
**IN OPPOSITION TO ICE'S ASSERTION OF IMMINENT REMOVAL**

I, Mohammad Hassan Yousefi, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct based on my personal knowledge:

1. I am the Petitioner in this habeas corpus action challenging my prolonged and unlawful detention by U.S. Immigration and Customs Enforcement ("ICE").
2. I submit this declaration in direct opposition to ICE's assertion that my removal to Iran is "imminent" and "reasonably foreseeable." That assertion is inaccurate, incomplete, and contradicted by the actual facts and ICE's own conduct.
3. I was taken into ICE custody on September 6, 2024, immediately upon my entry into the United States from Mexico, and I have remained continuously in ICE custody since that date.
4. According to ICE's own records, I am currently detained at the Otay Mesa Detention Center.
5. On September 3, 2025, an Immigration Judge issued a removal order directing my removal to Iran. This order became administratively final on October 3, 2025.
6. I was denied asylum by the Immigration Judge. At the time of my hearing, I did not fully understand the legal process, the applicable standards, or how to properly present my claim for protection.
7. I had extremely limited access to legal resources, country condition evidence, or meaningful information about my rights while in detention.
8. Although I had counsel at my immigration hearing, my attorney did not adequately investigate my case, did not fully present the risks I face in Iran, and did not effectively advocate on my behalf.
9. As a result, I was unable to meaningfully present my asylum claim or the grave dangers I would face if returned to Iran.
10. Recognizing these failures, I have decided to actively defend my own rights at higher levels of review, including in federal court, to ensure that my case is fairly and fully considered.
11. ICE has had full control over my detention, travel documents, and removal logistics at all relevant times.
12. On January 9, 2026, at approximately 1:00 a.m., ICE transported me from the Otay Mesa Detention Facility to San Diego International Airport for removal to Iran.
13. I remained in ICE custody at the airport overnight, and on the morning of January 10, 2026, I was returned to the detention facility without being removed from the United States. ICE has never provided me with a clear or credible explanation for why this removal attempt failed.
14. ICE did not disclose this failed removal attempt of January 9, 2026 in its filing with the Court. I believe this omission is material because it directly contradicts ICE's claim that my removal is imminent or readily executable.
15. On January 22, 2026, at approximately 5:00 a.m., ICE again removed me from the Otay Mesa Detention Facility and transported me to a military airfield for another attempted removal.

16. I was separated from other detainees and held at that location for more than 24 hours. I was then returned to the detention facility without being deported and without any explanation.
17. These two failed removal attempts demonstrate that my removal is not reasonably foreseeable in practice. If removal were truly feasible, ICE would have been able to effectuate it during either attempt.
18. I reasonably believe that my continued detention no longer serves any legitimate purpose under 8 U.S.C. § 1231(a)(6), because removal is not realistically foreseeable as required by *Zadvydas v. Davis*, 533 U.S. 678 (2001).
19. I have a genuine, well-founded, and individualized fear that ICE's stated intention to remove me disregards the severe and well-documented risk to my life and liberty in Iran. The Islamic Revolutionary Guard Corps ("IRGC") operates outside the rule of law, routinely engages in arbitrary arrests, torture, enforced disappearances, and extrajudicial killings, and specifically targets individuals perceived as dissidents or connected to families under scrutiny.
20. On January 9, 2026, my brother, [REDACTED] was shot with a **combat bullet** by the IRGC during a period of heightened government repression. This was not an isolated incident but part of a broader pattern of state violence against civilians.
21. Because he reasonably feared that IRGC forces might kill or abduct him, my brother initially avoided going to a hospital, demonstrating the pervasive climate of fear and danger created by Iranian security forces.
22. On January 12, 2026, when his condition became critical, he was forced to seek medical treatment and underwent emergency surgery to save his life.
23. While hospitalized, agents associated with the IRGC later took my brother, subjected him to interrogation and coercive treatment, and questioned him specifically about me and my whereabouts. This shows that the IRGC is actively monitoring and targeting my family.
24. These events establish that my family is under active scrutiny by Iranian security forces and that I would likely be identified, detained, tortured, or even executed if returned to Iran. My fear is not speculative; it is based on concrete, recent, and personal threats to my immediate family.
25. Given the IRGC's demonstrated interest in my family and my brother's recent shooting, detention, and interrogation, I believe that my return to Iran would place me at an extreme and immediate risk of arbitrary arrest, torture, and possible execution. This risk is personal, individualized, and substantially higher than that faced by the general population.
26. ICE has not provided this Court with evidence that the Government of Iran has affirmatively agreed to accept me, nor that my removal would be safe, lawful, or feasible.
27. Mere possession of a passport does not satisfy ICE's burden under *Zadvydas*, particularly where two removal attempts have already failed.
28. The repeated attempts to remove me, followed by returns to detention, have caused me severe psychological distress, anxiety, and fear. I live in constant uncertainty about when ICE may again attempt to remove me.
29. I have no criminal history in the United States or elsewhere. I pose no danger to the community, and I am willing to comply with any reasonable conditions of release, including electronic monitoring, regular reporting to ICE, and travel restrictions.

30. For all of the foregoing reasons, I respectfully oppose ICE's assertion that my removal is imminent and request that this Court find my continued detention unlawful and order my immediate release.

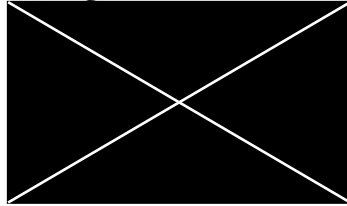
I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

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**Mohammad Hassan Yousefi**  
Petitioner, pro se

2/8/2026



# ARGUMENT

## IN OPPOSITION TO ICE'S RETURN AND ASSERTION OF IMMEDIATE REMOVAL\*\*

### I. JURISDICTION AND LEGAL FRAMEWORK

This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner's detention and the government's compliance with statutory and constitutional limits on post-removal-order detention.

Petitioner challenges his continued detention under:

- 8 U.S.C. § 1231(a)(6) (post-removal-period detention),
- *Zadvydas v. Davis*, 533 U.S. 678 (2001),
- Fifth Amendment to the U.S. Constitution (Due Process Clause), and
- The United States' obligations under the Convention Against Torture (CAT) and the principle of Non-Refoulement.

### II. ICE'S CONTINUED DETENTION VIOLATES 8 U.S.C. § 1231(a)(6) AND ZADVYDAS

#### A. The Statute Does Not Permit Indefinite Detention

Under 8 U.S.C. § 1231(a)(6), an alien subject to a final removal order may be detained beyond the 90-day removal period only if removal is "reasonably foreseeable."

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held:

"Once removal is no longer reasonably foreseeable, continued detention is not authorized by statute."

The Court established a presumptively reasonable period of six months. After that, the government bears the burden to show a significant likelihood of removal in the reasonably foreseeable future.

Here, ICE has failed to meet this burden.

**B. Two Failed Removal Attempts Prove Removal Is Not Reasonably Foreseeable**

The undisputed facts show:

- January 9, 2026: ICE transported Petitioner to San Diego International Airport for removal. He was held overnight and returned without deportation.
- January 29, 2026: ICE again attempted removal, separated him from others, held him for over 24 hours, and again returned him without deportation.

These two failed attempts demonstrate that removal is not feasible in practice, which directly rebuts ICE's claim of "imminence."

Under *Zadvydas*, this alone is sufficient to render continued detention unlawful.

**C. Possession of a Passport Is Legally Insufficient**

ICE argues that because it possesses Petitioner's Iranian passport, removal can be effectuated "promptly."

This argument fails as a matter of law.

Courts have repeatedly held that mere possession of travel documents does not satisfy the government's burden under *Zadvydas*. The government must show actual, concrete, and realistic prospects of removal — not speculative or hypothetical possibilities.

- Evidence that Iran has affirmatively agreed to accept Petitioner, or
- Any guarantee that removal will actually occur.

Instead, the record shows repeated failure.

### **III. REMOVAL WOULD VIOLATE THE FIFTH AMENDMENT (DUE PROCESS)**

#### **A. Substantive Due Process Protects Against Return to Torture or Execution**

The Fifth Amendment's Due Process Clause prohibits the government from arbitrarily depriving a person of life or liberty.


Deporting an individual to a country where he is likely to be tortured or executed violates substantive due process.

Federal courts have recognized that deportation cannot be used as a means to expose a person to serious harm in violation of fundamental constitutional protections.

#### **B. High Likelihood of Torture, Detention, and Execution in Iran**

Petitioner has established a credible, individualized risk of severe harm if returned to Iran.

##### **1. Direct Targeting of His Family by the IRGC**

- On January 9, 2026, Petitioner's brother,  was shot with live military ammunition by the IRGC.
- Out of fear of being killed or abducted, he initially avoided going to a hospital.
- On January 12, 2026, he required emergency surgery due to the severity of his injuries.
- While hospitalized, IRGC agents took him, interrogated him, and specifically questioned him about Petitioner and his whereabouts.

This demonstrates that Petitioner is already on the radar of Iranian security forces.

Under Ninth Circuit precedent, when a family member has been targeted by a repressive regime, the risk to the petitioner is significantly heightened.

## **2. Country Conditions Confirm Systematic Repression in Iran**

Well-documented reports from credible organizations establish that:

- The IRGC routinely detains dissidents and their family members.
- Torture in detention is widespread.
- Summary trials and executions occur, particularly against individuals accused of “anti-state activities” or “collaboration with foreign enemies.”

Given that the IRGC has already targeted Petitioner’s brother and inquired about Petitioner, the likelihood of detention, torture, or execution is more likely than not if he is returned.

This satisfies the legal standard under CAT and U.S. asylum law.

## **IV. VIOLATION OF NON-REFOULEMENT (INTERNATIONAL AND U.S. LAW)**

The United States is bound by the principle of Non-Refoulement, which prohibits returning a person to a country where they face a substantial risk of torture or persecution.

This principle is embedded in:

- The Convention Against Torture (CAT),
- U.S. implementing regulations, and
- Longstanding federal case law.

Even if ICE could physically remove Petitioner (which it cannot), removal would still be illegal because it would expose him to a substantial risk of torture or execution.

## **V. ICE'S RELIANCE ON "MANDATORY DETENTION" IS MISPLACED**

ICE claims detention is mandatory under 8 U.S.C. § 1231(a).

However, Zadvydas explicitly limits mandatory detention:

- Detention is permissible only as long as removal is reasonably foreseeable.
- When removal is not feasible, detention becomes unconstitutional.

Here, given the failed removal attempts and lack of evidence of Iran's acceptance, continued detention violates both statute and the Constitution.

## **VI. DUE PROCESS VIOLATION IN THE ASYLUM PROCEEDINGS**

Petitioner's asylum denial cannot justify immediate removal because the process was fundamentally unfair:

- He had extremely limited access to legal resources while detained.
- His attorney failed to fully present the risks he faces in Iran.
- He did not fully understand the legal standards or how to properly present his claim.

Under the Fifth Amendment, a removal order based on an unfair proceeding cannot be used to justify continued detention or immediate deportation.

## **VII. DIRECT REBUTTAL TO ICE'S KEY ARGUMENTS**

**ICE Claim:**

**"Removal is reasonably foreseeable."**

Rebuttal: Two failed removal attempts conclusively disprove this claim.

ICE Claim:

“Possession of a passport makes removal prompt.”

Rebuttal: Zadvydas requires actual feasibility, not mere paperwork.

ICE Claim:

“Detention is mandatory.”

Rebuttal: Mandatory detention ends when removal is not foreseeable.

ICE Claim:

“No evidentiary hearing is needed.”

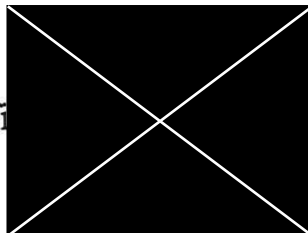
Rebuttal: Given the serious risk of torture and execution, an evidentiary hearing is constitutionally required.

## VIII. PRAYER FOR RELIEF

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

1. Find that his continued detention violates 8 U.S.C. § 1231(a)(6) and the Fifth Amendment Due Process Clause;
2. Grant Petitioner’s habeas petition and order his immediate release under appropriate conditions of supervision, including periodic reporting, electronic monitoring if deemed necessary, and compliance with all lawful directives of ICE;
3. Grant such other and further relief as the Court deems just and proper.

Mohammad Hassan Yousefi  
Petitioner, pro se



02/08/2026