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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

RAHUL RAHUL

Petitioner,

v.

SHIKHA DOSANJ, *in her official capacity as Warden of the Federal Detention Center, Honolulu, Hawai'i*; POLLY KAISER, *in his official capacity as Acting Field Office Director of the Immigration and Customs Enforcement, San Francisco Field Office*; KRISTI NOEM, *in her official capacity as Secretary of the Department of Homeland Security*; PAMELA BONDI, *in her official capacity as Attorney General of the United States,*

Respondents.

Civil Case No. CV26-00067-SAS-RT

**PETITIONER'S OPTIONAL
REPLY TO RESPONDENT'S
OPPOSITION TO PETITIONER'S
WRIT OF HABEAS CORPUS
PETITION UNDER 28 U.S.C. § 2241**

INTRODUCTION

Petitioner now replies to the Respondent's opposition to Petitioner's Petition for Writ of Habeas Corpus ("the Petition") for relief pursuant to 28 U.S.C. § 2241. On October 27, 2025, Immigration Judge Clarence Wagner, Jr. granted withholding of removal pursuant to INA section 241(b)(3), and DHS waived appeal. Petitioner has been in detention since around November 7, 2024. Respondent has failed to provide a sufficient basis to show that Petitioner's removal to a third country is likely in the reasonably foreseeable future, and the Petition should be granted. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (stating that, after six months of detention, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient to rebut that showing).

While Respondent has noted certain undisputed facts regarding the legal history of this case, Respondent has ignored other significant material facts presented by Petitioner that directly undermine Respondent's assertion that removal is reasonably foreseeable, including the absence of any response from any third nation government.

ARGUMENT

1. Respondent's Err in Asserting that there is a Significant Likelihood of Removal to a Third Country in the Reasonably Foreseeable Future

Petitioner has never resided in a third country, but only in India, and he cannot now be deported to India due to the withholding of removal order of the IJ. Since October 27, 2025, when the IJ withheld removal of Petitioner to India, the Respondent has been put on notice to look for a third-country removal. While Respondent asserts that the U.S. Department of Homeland Security (“DHS”) is actively working with the U.S. Department of State (“DOS”) to identify a third country for removal, it was not stated when that active search started for the individual case of Mr. Rahul. To date, DHS has had nearly five months to make that search, and its dilatory work should not be held against Petitioner.

Congress has made it the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country where that person would be in danger of being subjected to torture. The recent policy of the DHS has been to take people and drop them off in third countries, without giving due process to many of these detainees. *See D.V.D., et al., v. D.H.S.*, 606 U.S. ___ (2025). Mr. Rahul is concerned that DHS might attempt this in his case.

In fact, on March 30, 2025, according to a new policy of DHS, immigration officers need not give notice or any opportunity to object before removing someone to an unfamiliar and potentially dangerous country, as long as the Government has generally received “assurances” that no persecution or torture will happen there. *Id.*, at page 1.

2. Petitioner Has Established that He is Entitled to Release from Detention

Petitioner was most recently detained on November 7, 2024, in San Diego, CA, for a period of over 16 months. In *Zadydas v. Davis*, 533 U.S. 678,689 (2001), the Supreme Court held that 8 U.S.C. section 1231(a)(6) “does not permit indefinite detention” and instead limits an alien’s post-removal period detention to a period reasonably necessary to bring about that alien’s removal from the United States. Once a Petitioner provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must rebut that showing, which the Respondent has failed to do. No evidence is given that any third nation government will accept Petitioner, and no basis has been given that the DOS and DHS have been actively looking for a third nation removal for Mr. Rahul.

The 90-day period of required detention after a final removal order has been issued, under 8 U.S.C. §1231(a)(2), has ended, so that DHS need not detain the four categories of those listed by the Government in their response to Mr. Rahul’s Habeas petition. Rather than arguing that Mr. Rahul fits any of these categories, the government argues that there is a significant likelihood of removal in the reasonably foreseeable future, to meet the test of *Zadvydas v. Davis*, 533 U.S. 6778, 689 (2001). Thus far, the government has not met that burden.

3. Respondent Errs in Asserting that the Public Interest Favors Continued Detention

Under the criteria for release stated in 8 C.F.R. §241.4(e), the decisionmaker must conclude that “(1) Travel documents for the alien are not available or, in the opinion of the Service, immediate removal, while proper, is otherwise not practicable or not in the public interest.”

Respondent has not yet identified any third nation for removal, so that immediate removal is not possible. In addition, Petitioner’s removal is not in the public interest. Petitioner has established community ties in California through his residence with a family relative. He has no criminal record in the United States or in India.

It must also be concluded under 8 C.F.R. § 241.4(e) that: “ (2) The detainee is a non-violent person; (3) The detainee is likely to remain non-violent if released, (4) The detainee is not likely to pose a threat to the community following release; (5) The detainee is not likely to violate the conditions of release; and (6) The detainee does not pose a significant flight risk if released”. Respondent has failed to even allege that Petitioner might violate these considerations.

In applying those factors: 2.) Petitioner is non-violent, 3.) Petitioner, on release, will remain non-violent, 4.) Petitioner is no threat to the community. 5.)

Petitioner is not likely to violate conditions of release, and 6.) Petitioner is not a flight risk. Mr. Rahul is highly motivated to continue not violating these six items.

4. Due Process Favors Petitioner's Release from Detention

Respondent is not legally required to detain Petitioner, and the detention itself violates due process. The Ninth Circuit recognizes that loss of physical liberty, impairment of access to counsel, and interference with preparation for a merits hearing constitute irreparable harm. *Rodriguez v. Robbins*, 715 F.3d 1127, 1144 (9th Cir. 2013), *rev'd on other grounds sub nom. Nat'l Ass'n of Mfrs. V. Dept't of Def.*, 583 U.S. 109,131 (2018).

Petitioner is suffering unique harm from his more than 16 months of detention. Under the test in *Mathews vs. Eldridge*, 424 U.S. 319, 334-35 (1976), there are three factors to consider in deciding if procedural protections satisfy the Due Process Clause. One factor to consider is the government's interest in detention, and in the case of Mr. Rahul, this interest is minimal as the Petitioner has consistently cooperated with all requests from DHS.

Another *Mathews* factor also favors Petitioner in that his liberty interests are substantial. His liberty interest against civil detention is fundamental, and the consequences of immigration detention are profound- loss of freedom and disruption of any further plans for self-improvement, including education for this young man.

The third *Mathews* factor also favors Petitioner. The risk of erroneous deprivation of rights by removal to a third country is substantial. Mr. Rahul has the right to a credible fear hearing if DHS gives him notice of a third country to which they propose removal, and he would voice fear of removal to any third country. *Zadvydas* permits his release because his removal is unlikely in the reasonably foreseeable future, given that it will take a long period of time for him to exhaust all of his rights under the justice system.

5. The Balance of Equities and Public Interest Favor Injunctive Relief

Removing Petitioner from detention imposes no meaningful burden on DHS, which retains full authority to litigate removability and to execute any lawful order that may ultimately issue. Supervised release is a viable option for Mr. Rahul or electronic monitoring. The public interest favors due process, judicial oversight, and restraint. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7,20 (2008); *Washington v. Trump*, 847 F.3 1151, 1162 (9th Cir. 2017)

CONCLUSION

Petitioner has been detained for over 16 months, and Respondent has not shown that Petitioner's removal to a third country is likely in the reasonably foreseeable future. DHS has not identified any exigency, flight risk, danger, or noncompliance. Due process is violated by detention without necessity. The

Mathews factors favor Petitioner as his liberty interests are substantial, and the risk of erroneous deprivation from detention is significant. And the government's interests do not outweigh needed safeguards, where Petitioner has always cooperated with ICE requests.

Respectfully Submitted,


Carmen Di Amore-Siah
Lead Counsel for Petitioner

CERTIFICATE OF SERVICE

I, Carmen Di Amore-Siah, hereby certify that on this date, a true and correct copy of the foregoing was served on the following at their last known address by electronic service via CM/ECF:

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DATED: March 11, 2026, in Honolulu, HI



Carmen Di Amore-Siah
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