IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-755

M.A.,

Petitioner-Plaintiff,

v.

JUAN BALTAZAR, in his official capacity
as warden of the Aurora Contract Detention Facility,

ROBERT HAGAN, in his official capacity
as Field Office Director, Denver, U.S. Immigration and Customs Enforcement,

KRISTI NOEM, in her official capacity
as Secretary, U.S. Department of Homeland Security,

TODD LYONS, in his official capacity
as Acting Director of Immigration and Customs Enforcement,

PAMELA BONDI, in her official capacity
as Attorney General of the United States

Respondents-Defendants.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner-Plaintiff, M.A.[1], by and through undersigned counsel ("Counsel"), hereby files this petition for writ of habeas corpus and an accompanying motion for a temporary restraining order and/or preliminary injunction, to prevent Respondents-Defendants, the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), and

[1]Petitioner will submit a motion to file under pseudonym upon conferring with the government.

the Executive Office for Immigration Review ("EOIR") (collectively "Respondents") from continuing M.A.'s unlawful detention.

2. This is an archetypal *Zadvydas* case. *Zadvydas v. Davis*, 533 U.S. 678 (2001). M.A., an Iranian citizen, fled his home in the face of certain and severe religious persecution. M.A. crossed the border from Mexico into California and submitted to DHS officers over eighteen months ago, on June 10, 2024, seeking fear-based protection against his deportation. M.A. has been detained ever since.

3. On February 26, 2025, an immigration judge ("IJ") granted withholding of removal, a special form of immigration protection that prevents ICE from removing a person to the country specified in the IJ's order based on a finding that it more likely than not that the person will face persecution. As a result, the IJ entered a final order of removal and simultaneously entered withholding of removal under INA § 241(b)(3). Ex. A, at 1 (IJ's final order). The government waived its appeal of this decision. *Id.* at 4.

4. Nevertheless, almost a year later, M.A. remains detained in ICE custody. Both M.A. and prior counsel have repeatedly requested his release. Ex. J (April 1, 2025, email from counsel); Ex. K (April 15, 2025, email from counsel); Ex. L (June 2025 email exchange); Ex. M (September 19, 2025, email from counsel); Ex. N (September 23, 2025 email from counsel); Ex. O (October 31 and December 15, 2025 emails from counsel); *see also* Ex. B, ¶ 15.

5. M.A. has a stable place to live in the United States. As Respondents have been informed, M.A. has made arrangements with Casa Marianella, a well-known non-profit that will help him integrate into a community, earn a living, and comply with any applicable immigration regulations. Ex. H, 11-14 (December 2024 email and letter from M.A.'s previous counsel

requesting parole); Ex. B, ¶ 13. Respondents received the email from M.A.'s prior counsel—and they responded with a denial pending the IJ's then upcoming review. Ex. I at 3-4.

6. It has been nearly 12 months since the IJ's order, and there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future" (*Zadvydas*, 533 U.S. at 701):

a. M.A. cannot be sent to Iran, his only place of citizenship. Ex. B, ¶ 1; Ex. A.

b. In the nearly 12 months since the IJ's order, Respondents have identified no viable third country that will accept M.A. On information and belief, any country that has responded to alleged requests have refused. For example, in an email to M.A.'s counsel on June 12, 2025, Deportation Officer ("DO") Damian Morales claimed that Respondents had been "continuously seeking" countries, including Poland, Turkey, and Moldova. Ex. L (email from DO Morales). Poland and Turkey refused. *Id.* On information and belief, Moldova either never responded or refused. *Id.* No other third countries have been identified, and accepting Mr. Morales's representations as true, Respondents have failed despite continuous efforts. There is no evidence of, and no reason to believe that there is, a significant likelihood of M.A.'s removal in the reasonably foreseeable future.

c. In the last six months, the only hint of an update M.A. has received regarding Respondents' purported removal attempts came on September 22, 2025, in an unofficial statement on generic plain white paper (without letterhead) that someone, presumably "DO - Knox," (which is typed at the bottom of the paper)—saying (Knox) had sent a "request for update of 3rd country removal" to someone else (no specific recipient

was identified). Ex. C; *see also* Ex. B, ¶ 14. M.A. has received no update since. Ex. B, ¶¶ 14-15.

d. When M.A. and other people held in detention have requested updates, most of the time they do not receive any response; however, one officer told them that they "never" will be released and that the government is "looking for a third country to deport you guys there." Ex. B, ¶ 15.

7. The only basis Respondents have given M.A. for continued detainment after the IJ's order is a boilerplate decision dated May 2025 that M.A. has "not demonstrated that, if released, you will not [] pose a significant risk of flight pending your removal from the United States. Ex. D, at 1. But *Zadvydas* made clear that "**whether [a petitioner] is a flight risk has no bearing on the constitutionality of [their] continued detention**." *Ahrach v. Baltazar*, No. 25-cv-03195-PAB, 2025 WL 3227529 at *5 (D. Colo. Nov. 19, 2025) (citing *Zadvydas*, 533 U.S. at 690) (emphasis added). Thus, even if M.A. *were* a flight risk (M.A. is not, *see infra*), "that fact does not permit [M.A.'s] continued detention where there is no evidence that removal is likely in the reasonably foreseeable future." *Id.*; *see also Zadvydas*, 533 U.S. at 690 ("[T]he first justification [for detainment]—preventing flight—is weak or nonexistent where removal seems a remote possibility at best.").

8. M.A. is therefore unlawfully and unconstitutionally incarcerated at the ICE Aurora Contract Detention Facility ("Aurora facility") in Aurora, Colorado, a prison privately owned and operated by Geo Group, Inc.

9. M.A.'s detention violates 8 U.S.C. §§ 1231(a)(3), (a)(6), and the Fifth Amendment's Due Process Clause.

10. M.A.'s detention also violates the Administrative Procedure Act and his procedural due process rights, as the government has not followed its own regulations in evaluating his case. M.A. is entitled to regular, individualized custody reviews. 8 C.F.R. § 241.4(k) (timing of post-order custody reviews); 8 C.F.R. § 241.4(h)(1) (initial review will include "any written information submitted to the district director"); 8 C.F.R. § 241.4(f) (listing factors for release). M.A. has asked officers for an interview but has not received any. Ex. B, ¶ 12. M.A.'s continued detention without proper process is unlawful. *Misirbekov v. Venegas*, 796 F. Supp. 3d 436, 439 (S.D. Tex. 2025) (ordering release as a matter of procedural due process where the government gave only a "boilerplate and pretextual" basis for detention instead of a "meaningful individualized review").

11. Under 35 U.S.C. §§ 1231(a)(3), its own regulations, and principles of Due Process, Respondents should have released M.A., It is unlawful for Respondents to indefinitely continue detention after failing to effectuate removal within the statutory 90-day deadline. Under *Zadvydas*, M.A.'s continued detention long after six months is unconstitutional. Therefore, Respondents should immediately release M.A.

12. M.A. petitions this Court to issue a writ of habeas corpus, ordering Respondents to show cause within three days, providing their reasons, if any, why his detention is lawful. 28 U.S.C. § 2243. M.A. further requests that this Court grant the petition and order immediate release, with no conditions of supervised release. M.A. also asks this Court for an order that prohibits Respondents from transferring him outside of the District of Colorado while it considers his Petition.[2] Finally, M.A. asks the Court for any other relief it deems proper.

[2] Petitioner will also be filing a motion for TRO/injunction.

JURISDICTION AND VENUE

13. M.A. currently is detained under 8 U.S.C. § 1231(a) in Respondents' custody at the Aurora facility. This case arises under the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*, the regulations implementing the INA, the Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub. L. No. 105–277, div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1998) (codified as Note to 8 U.S.C. § 1231), the regulations implementing the FARRA, the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*

14. This Court has jurisdiction under Art. I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas authority); 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. §§ 2201, 2202 (Declaratory Judgment Act).

15. District courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their civil immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas*, 533 U.S. at 687.

16. This Court has jurisdiction to grant declaratory and injunctive relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201, *et seq.*; the All Writs Act, 28 U.S.C. § 1651; 28 U.S.C. § 2241(a); FED. R. CIV. P. 57, 65; as well based on its inherent authority to grant equitable relief. *See, e.g.*, *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971).

17. Venue is proper under 28 U.S.C. § 1391 because M.A. is detained in the Aurora facility within the jurisdiction of this Court. *See* 28 U.S.C. § 2241(d); *Braden v. 30th Judicial Circuit*, 410 U.S. 484, 493–94 (1973). Venue is also proper because at least one of the Respondents

is a resident of this District, and a substantial part of the events giving rise to the claims in this action took place within this District. 28 U.S.C. § 1391.

PARTIES

18. M.A. is a citizen of Iran. Ex. E, at 1. M.A. fled Iran due to fear of religious persecution in April 2024. *Id.* at 3. On or around June 10, 2024, M.A. entered the United States from Mexico to seek asylum and submitted to DHS review. *Id*; *see also* Ex. F, at 1. On February 26, 2025, an IJ ordered M.A. removed but withheld removal to Iran under INA § 241(b)(3) (8 USC § 1231(b)(3)). Ex. A, at 1. Appeal of this order was waived, and the order is final. M.A. is still detained at the Aurora Facility.

19. Respondent Juan Baltazar is named in his official capacity as the warden of the Aurora facility, where M.A. is detained, and is therefore M.A.'s legal custodian.

20. Respondent Robert Hagan is named in his official capacity as the Acting ICE Denver Field Office Director. The Denver Field Office is responsible for carrying out ICE's immigration detention operations at all of Colorado's detention centers. Respondent Hagan is a legal custodian of M.A.

21. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security ("DHS"). She is responsible for the administration of U.S. immigration law and is legally responsible for the process of M.A.'s detention and removal. As such, she is a legal custodian of M.A.

22. Respondent Todd Lyons is named in his official capacity as Acting Director of ICE. As the head of ICE, he is responsible for the decisions related to the detention and removal of certain noncitizens, including M.A. As such, he is a legal custodian of M.A.

23. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the District of Colorado and is legally responsible for administering M.A.'s removal and bond proceedings as well as the procedural standards used in those proceedings. She is therefore a legal custodian of M.A.

EXHAUSTION OF REMEDIES IS NOT REQUIRED

24. Petitions under 28 U.S.C. § 2241 are not subject to statutory exhaustion requirements.

25. However, even if exhaustion were necessary in some circumstances, it "is not required in the immigration context when it would be futile...or when 'the interests of the individual in retaining prompt access to a federal judicial forum outweigh the interest of the agency in protecting its own authority.'" *Quintana Casillas v. Sessions*, No. CV 17-01039-DME-CBS, 2017 WL 3088346, at *9 (D. Colo. July 20, 2017) (citing *Son Vo v. Greene*, 109 F. Supp. 2d 1281, 1282 (D. Colo. 2000)).

26. Exhaustion of administrative remedies is not required; in any case, it would be futile because M.A.'s claims cannot be meaningfully addressed or remedied via the administrative process. M.A. is detained under 8 U.S.C. § 1231(a) and thus cannot request a custody redetermination hearing before an IJ. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022). Further, M.A.'s continued detention is unlawful and unconstitutional under *Zadvydas*, and neither an IJ nor the Board of Immigration Appeals can rule on constitutional claims. *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[T]he immigration judge and this Board lack jurisdiction to

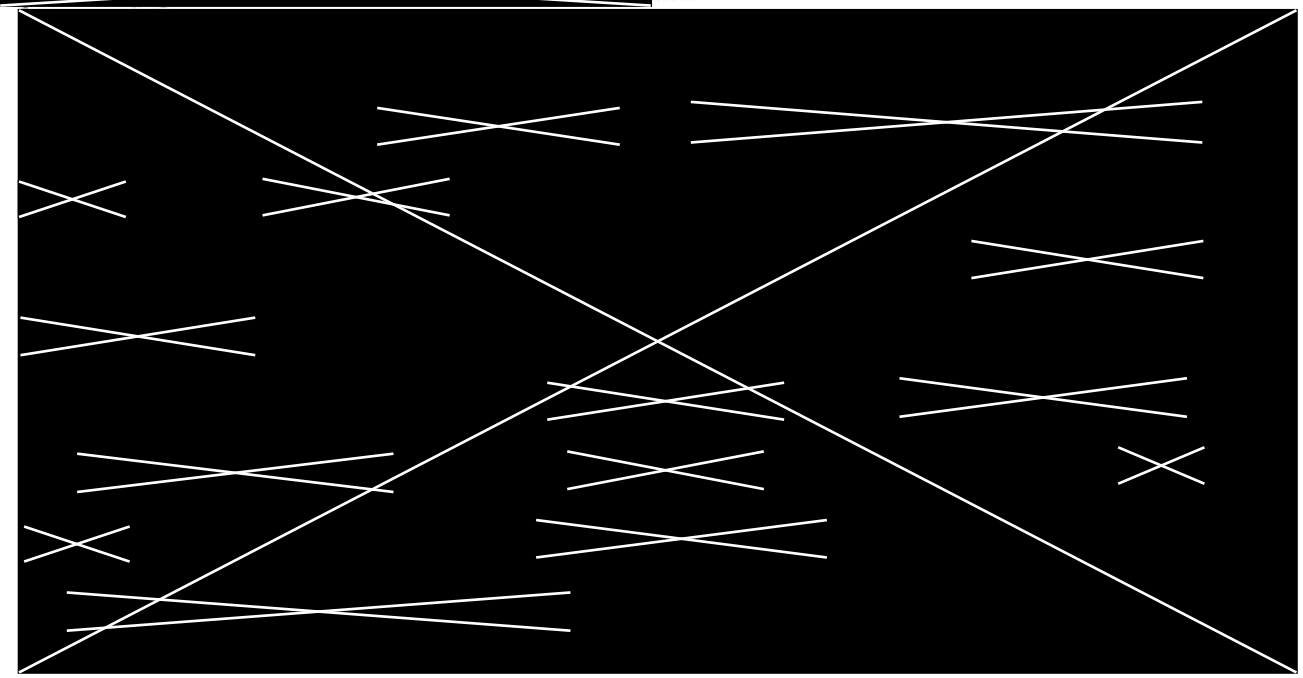
rule upon the constitutionality of the Act and the regulations."). There are no further administrative remedies to exhaust.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

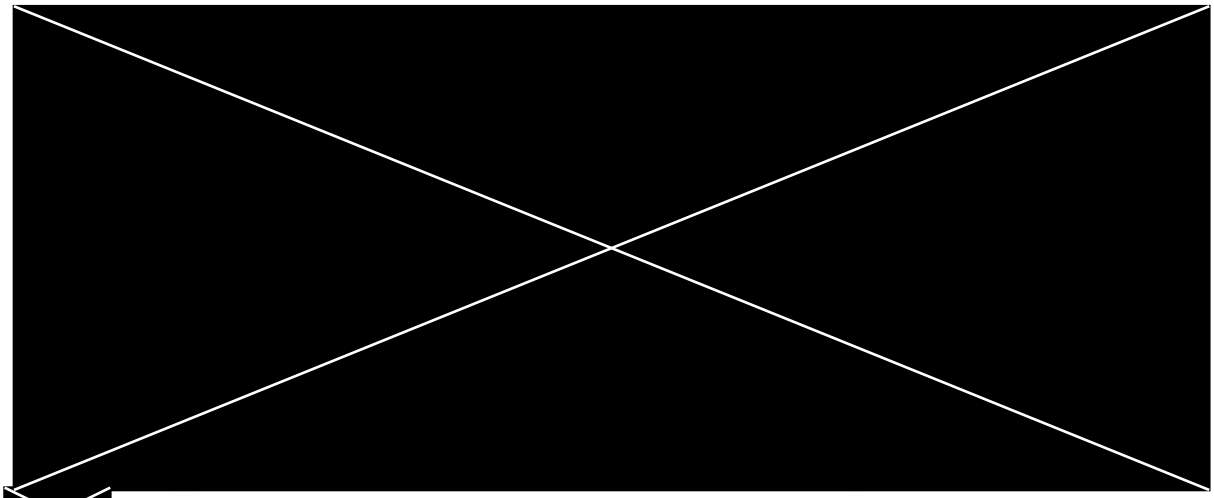
Background

27. M.A. was born in Iran and, has never lived anywhere else. Ex. B, at ¶ 1. M.A. was raised to practice [redacted], but he abandoned the practice at around nineteen years old. *Id.* at ¶ 2. In 2023, M.A. began attending a [redacted] in Tehran with a close friend and decided to [redacted]. *Id.* at ¶ 2.

28. In January 2024, M.A. was [redacted]. *Id.* M.A. and the [redacted] were forced to [redacted] out of [redacted]. *Id.* at ¶ 3. The [redacted] *Id.*



31. After a perilous journey, M.A. found his way to the United States to seek asylum. Ex. E; *see also* Ex. B, ¶¶ 6, 8.



And the IJ ordered withholding of removal to Iran where M.A. would surely be subject to immediate and severe persecution for his Christian beliefs. Ex. A. at 1.[3]

Order of Removal, Withholding, and Post-Custody Events

33. M.A. entered the United States on or around June 10, 2024, and was immediately detained. Ex. F, 1; Ex. B, ¶ 6. M.A. has no history of immigration violations and no criminal background. *Id.* at ¶ 10.

34. Respondents have detained M.A. for nearly two years with no end in sight, and have moved him multiple times.

35. In December 2024, M.A., through counsel, requested pre-order parole. *See* Ex. H. In the letter, ICE was informed that Casa Marinella, a widely-respected non-profit organization,

[3] The IJ denied M.A.'s asylum application because under the Circumvention of Pathways final rule, he was not eligible for asylum due to his manner of entry into the United States. Instead, the IJ granted withholding of removal, recognizing that it was more likely than not M.A. would face persecution in Iran if deported there.

has pledged its sponsorship and to provide him with the support and resources necessary to ensure his compliance with future immigration proceedings. Ex. H, 4-5 (email and letter for release on parole); *see also id.* at 11-14 (sponsor declaration). On January 15, 2025, ICE emailed its decision denying M.A.'s parole request pending a custody redetermination by an IJ. Ex. I at 1, 3-4.

36. On February 26, 2025, an IJ granted M.A. protection based on his grave risk of future persecution in Iran. Ex. A, at 1. Procedurally, the IJ first entered an order of removal that was then withheld—all within the scope of one order. *Id.* On February 28, replying to the officer who emailed the January 15 decision denying parole, prior counsel for M.A. requested an update on his release. Ex. I at 2.

37. In April 2025, prior counsel for M.A. repeatedly requested updates regarding M.A.'s release pursuant to the IJ's order withholding removal. Ex. J. DO Morales replied that M.A. was "pending approval from management to proceed with release." Ex. J.

38. On May 16, 2025, ICE issued a decision to continue his detention. Ex. D. The sole basis for continued detention was that M.A. has not demonstrated that he is not a flight risk. *Id.* at 1. There is no indication that Respondents made this determination based on facts obtained during any interview or considered facts contained in his written record, including consideration of the sponsorship with Casa Marinella. Instead, as other courts viewing similar decisions have found, this appears to be a generic, boilerplate report of determination, a pretext of review. *Misirbekov*, 796 F. Supp. 3d at 439 (S.D. Tex. 2025) (ordering removal before expiration of *Zadvydas* six-month period as a matter of procedural due process due to government's lack of meaningful and individualized review).

39. Upon handing M.A. the determination, a deportation officer told him that they were sending the decision to "HQ" (headquarters) to review and asked if he wanted an interview. Ex. B, at ¶ 11. The officer told M.A. (who would require a translator) that an interview would not be necessary to obtain release, and when framed in that way, M.A. declined the interview. *Id.* After receiving no updates about the status of his release despite multiple requests, M.A. requested an interview, but has not been provided one. *Id.* at ¶ 12.

40. In June 2025, prior counsel for M.A. reiterated requests for his release. Ex. L. A DO indicated that they were looking for countries to accept M.A. but, as of that time, had only received rejections or no response at all from the third countries. *Id.*

41. In September 2025, as his English developed, M.A. informed an officer that he has been detained for many months despite removal to Iran being withheld. Ex. B, at ¶ 14. In response, on September 22, 2025, the officer handed M.A. a piece of paper that said a request for an update on third country removal was sent, but it did not identify who the request was sent to or what it said. Ex. C; *see also* Ex. B, at ¶ 14. The paper bears no letterhead or signature. The paper identifies no third country and provides no information about the alleged request (who sent it, to whom, when, how it was delivered, etc.). The paper does not inform M.A. of his rights to challenge any attempt to remove him to a third country or his right to confer with counsel about any such attempt. And despite asking many times, M.A. has not received any update since receiving this paper. Ex. B, ¶ 14.

42. In September, October, and December 2025, M.A.'s prior counsel repeated requests for his release, stressing that the continued detainment was affecting M.A.'s mental

health. Ex. M; Ex. N; Ex. O. On information and belief, Respondents provided no updates regarding the likelihood of removal or M.A.'s release.

43. Whenever M.A. has asked about release, officers do not give him a specific answer or even an estimated time for release. Ex. B at ¶ 15. Most of the time, M.A. gets no answer at all, but like other people also detained, M.A. has been told by officers that they "never" will be released because the government is "looking for a third country to deport you guys there." *Id.* ¶ 15.

44. Respondents have failed to identify any third country for removal despite having nearly 12 months to do so, M.A. has shown that there is no significant likelihood of removal in the reasonably foreseeable future. M.A.'s continued detainment is unlawful.

LEGAL FRAMEWORK

Withholding of Removal Protection

45. Withholding of removal is a mandatory form of protection preventing deportation to the country or countries where an immigration judge finds that the individual is more likely than not to be persecuted. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16–18, 1208.16–18; *see also Moncrieffe v. Holder*, 569 U.S. 184, 187 n.1 (2013) ("[T]he Attorney General has no discretion to deny relief to a noncitizen who establishes his eligibility [for withholding of removal or CAT protections]."). The withholding statute implements the United States's obligations under Article 33 of the 1951 United Nations Refugee Convention, incorporated into its 1967 Protocol by which signatory countries may not "expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." *INS v. Aguirre*

Aguirre, 526 U.S. 415, 427 (1999). Withholding of removal does not prevent a noncitizen from being removed from the United States, but rather prohibits removal to the specific country where a noncitizen has established they are likely to face persecution. Under certain circumstances, noncitizens can be removed to a "third country" that is not their country of citizenship or nationality, provided the foreign government will accept them. 8 U.S.C. § 1231(b)(1)-(3). 8 U.S.C. § 1231(b)(2)(E)(vii). However, "the Attorney General may not remove [a noncitizen] to a country if the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that country because of the [noncitizen's] race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231 (b)(3)(A).

Post Final Order ICE Detention and Third Country Removals

46. When a noncitizen is ordered removed from the United States, removal should ordinarily be effectuated within a period of 90 days, known as the removal period. 8 U.S.C. § 1231(a)(1); *see also Morales-Fernandez v. I.N.S.*, 418 F.3d 1116, 1123 (10th Cir. 2005).

47. A noncitizen with a final order of removal "who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (titled "Supervision after 90-day period"). A noncitizen "may" be detained past the 90-day removal period following a removal order if found to be "a risk to the community or unlikely to comply with the order of removal" or if the order of removal was on specified grounds. *Id.* § 1231(a)(6). The language of § 1231(a)(6) does not permit absolute discretion or indefinite detention, as noncitizens, including those subject to final orders of removal, are protected by the U.S. Constitution. *See Zadvydas*, 533 U.S. at 693.

48. In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6), when "read in light of the Constitution's demands, limits a [noncitizen]'s post-removal-period detention to a period reasonably necessary to bring about that [noncitizen]'s removal from the United States." *Id.* at 689. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699.

49. To balance the statutory language with constitutional limitations, the Supreme Court adopted a "presumptively reasonable period of detention" of six months when reviewing detention during the removal period. *Id.* at 701. After six months, if there is "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." *Id.* Moreover, "for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Id.* at 701. In sum, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699–700.

50. After *Zadvydas*, DHS added additional regulations creating "special review procedures" to determine whether detained noncitizens are likely to be removed in the reasonably foreseeable future. *See Continued Detention of Aliens Subject to Final Orders of Removal*, 66 Fed. Reg. 56,967 (Nov. 14, 2001). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on "special circumstances," it must justify the detention based on narrow grounds such as national security or public health concerns, 8 U.S.C. § 241.14(b)–(d), or by demonstrating, by clear and convincing evidence before an immigration

judge, that the noncitizen is "specially dangerous." *Id.*, § 241.14(g). In this case, there is no allegation that M.A. is specially dangerous.

51. However DHS prioritizes the removals of noncitizens, it must comply with fairness and Due Process requirements. *See Trump v. J.G.G.*, No. 24A931, 2025 WL 1024097, at *2 (Apr. 7, 2025) (per curiam) ("It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings."). The government must comply with any applicable statutes, regulations, and Due Process to detain individuals, including noncitizens. *See United States v. Caceres*, 440 U.S. 741, 760 (1979).

Third Country Removals

52. In certain circumstances, noncitizens can be removed to "third countries" that are not their country of origin where the foreign government will accept them. 8 U.S.C. § 1231(b)(1)–(3). Third country removals are not common. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 537 (2021) (addressing the contention that "DHS often does not remove [a noncitizen] to an alternative country if withholding relief is granted" and "only 1.6% of [noncitizens] who were granted withholding of removal were actually removed to an alternative country").

53. The government may not cite the mere possibility of third country removal as basis for indefinite detention. *See, e.g.*, *Ali v. Baltazar*, No. 1:25-CV-03317-RBJ, 2026 WL 322565, at *5 (D. Colo. Jan. 27, 2026); *Ahrach*, 2025 WL 3227529, at *2. If a petitioner provides good reason to believe that his removal is not significantly likely in the reasonably foreseeable future, the burden shifts to the government to rebut this showing with evidence: "bare assertions" that the government is pursuing third country removal options is not enough. *Aguilar v. Noem*, No. 25-CV-03463-NYW, 2025 WL 3514282, at *4 (D. Colo. Dec. 8, 2025) (collecting cases).

54. Additionally, third country removal would be unlawful if the person's "life or freedom would be threatened" due to persecution on account of a protected ground, 8 U.S.C. § 1231(b)(3)(A), or if they are likely to face future torture, 8 C.F.R. §§ 208.16(c), 208.17(b)(2), 1208.16(c), 1208.17(b)(2). Pursuant to § 1231(b)(3)(A), courts repeatedly have held that individuals cannot be removed to a country that was not properly designated by an immigration judge if they have a fear of persecution or torture in that country. *See Ali*, 2026 WL 322565, at *5 (citing *Jama v. Immig. & Customs Enf't*, 543 U.S. 335, 348 (2005) and *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999)); *see also Aguilera v. 1205 Kirkpatrick*, 241 F.3d 1286, 1292 (10th Cir. 2001) ("When facing deportation ... [noncitizens] are entitled to procedural due process, which provides an opportunity to be heard at a meaningful time and in a meaningful manner."); *Kossov v. INS*, 132 F.3d 405, 408–09 (7th Cir. 1998); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting designation of third country where individuals received "ample notice and an opportunity to be heard"). Meaningful notice and opportunity to present a fear-based claim prior to deportation to a country where a person fears persecution or torture are also fundamental due process protections under the Fifth Amendment. *See Andriasian*, 180 F.3d at 1041; *Protsenko*, 149 F. App'x at 953; *Kossov*, 132 F.3d at 408; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019).

The APA Sets Minimum Standards for Final Agency Action

55. The APA authorizes judicial review of final agency action. 5 U.S.C. § 704.

56. Final agency actions are those (1) that "mark the consummation of the agency's decisionmaking process" and (2) "by which rights or obligations have been determined, or from

which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation modified).

57. ICE's decision to continue M.A's detention is a final agency action subject to this Court's review. The Supreme Court has recognized that a federal agency's failure to comply with its own regulations generally renders the associated agency action unlawful. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

58. The decision was also an action by which rights or obligations have been determined or from which legal consequences flowed because it led ICE to continue to detain M.A. in violation of his rights under the Constitution, statute, and regulations.

ARGUMENT

59. The Court should grant M.A.'s petition, order his immediate release and require that he receive notice and an opportunity to be heard prior to any removal to a third country.

I. M.A. is Subject to Unlawful Post-Final Order Detention That Violates Fifth Amendment Due Process, 8 U.S.C. § 1231(a)(6), and Zadvydas.

60. M.A. is protected from indefinite detention by 8 U.S.C. § 1231(a) and Due Process, as recognized by The United States Supreme Court in *Zadvydas*. 533 U.S. at 690. M.A.'s order of removal became final on February 26, 2025. Ex. A. No country has been identified for removal. M.A.'s continued detention, nearly a year after the order, is not justified.

61. Due process requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotations omitted). Under *Zadvydas*, if a petitioner meets an initial burden of showing a "good reason to believe that there is no significant likelihood of removal in the reasonably

foreseeable future," the burden shifts to the government to rebut that showing. *Aguilar*, 2025 WL 3514282, at *4.

62. M.A. meets this burden. M.A cannot be removed to the only country to which M.A. has any ties—Iran—without facing religious and political persecution. *Id.* at *4 (collecting cases) ("Courts have found [the petitioner's initial burden] satisfied where … a habeas petitioner shows that some impediment precludes removal to their country of origin.").

63. Additionally, M.A. has not received any updates on Respondents' efforts regarding third country removal in the last six months—all he has received is an informal note averring that a request for update was sent to…someone. Ex. B, ¶¶ 14-15; Ex. C. Before that, the only update was that two of three requested countries had rejected Respondents' requests, and the third either has not responded or rejected it. Ex. L. Even if these efforts could be considered good faith, the government's lack of any progress corroborates M.A.'s position that there is no significant likelihood of removal in the foreseeable future. *See Nguyen v. Scott*, 796 F. Supp. 3d 703 (W.D. Wash. 2025) (finding removal not reasonably foreseeable where "conversations with the ICE officer did not suggest that any changed circumstances in Petitioner's individual case made his deportation likely"); *see also Vaskanyan*, 2025 WL 3050075, at *3 (rejecting government's argument that allegations of good faith efforts might be sufficient to rebut a *Zadvydas* petition).

64. "Even if" Respondents were to assert that they have selected a potential third country for M.A., "such representations would not suffice" because M.A. is entitled to substantial procedural protections to raise and have heard any fear-based claims before such removal can occur. *Ali*, 2026 WL 322565, at *5. A last-minute designation of a removal country would violate a "'basic tenet of constitutional due process: that individuals whose rights are being determined

have notice of the issues to be adjudicated, so that they will have the opportunity to prepare and present relevant arguments and evidence.'" *Id.* (quoting *Andriasian*, 180 F.3d at 1041 (9th Cir. 1999)); *see also Arostegui Maldonado v. Baltazar*, No. 25-CV-2205-WJM-STV, 2025 WL 2280357, at *13 (D. Colo. Aug. 8, 2025) (granting "an injunction requiring Respondents to adhere to their *non-discretionary* obligation to provide [petitioner] with notice and an opportunity to seek withholding of removal before he is deported to any third country.") (emphasis in original). The Supreme Court has recently again confirmed that Due Process entitles noncitizens "notice and an opportunity to challenge their removal" before being spirited away. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Even DHS guidelines require "credible assurances from the third country that the noncitizen will not be persecuted or tortured" before removal, and non-citizens must be given "notice and an opportunity to raise fear-based claims" in the absence of such credible assurances. *Ahrach*, 2025 WL 3227529, at *5 n.10; *Nguyen*, 796 F.Supp.3d at 728-29; *see also see also Chennah v. Baltazar*, No. 1:26-CV-00112-CNS, 2026 WL 179951 (D. Colo. Jan. 23, 2026) (ordering release under *Zadvydas* where USCIS determined that Petitioner would more likely than not be persecuted in identified third country and ICE was only considering whether to reopen proceedings before the immigration court).

65. Further, because M.A.'s withholding order was based on fear-based claims for protection, M.A. must be given notice of proposed countries of removal. *See* 8 C.F.R. § 1240.10(f) (stating that "immigration judge shall notify the [noncitizen]" of proposed countries of removal); 8 C.F.R. § 1240.11(c)(1)(i) ("If the [noncitizen] expresses fear of persecution or harm upon return to any of the countries to which the [noncitizen] might be removed pursuant to § 1240.10(f) . . .

the immigration judge shall . . . [a]dvise [the noncitizen] that he or she may apply for asylum in the United States or withholding of removal to those countries[.]").[4]

66. Given that M.A. meets the initial burden, the burden shifts to Respondents to rebut this showing with evidence. *Izbitski v. Carnes*, No. 1:25-cv-00778-JB-JMR, 2026 WL 102974, *8 (D. N.M. Jan. 14, 2026). They cannot do so.

67. The record already shows what Respondents will say—and what they cannot say—where and when, if at all, they might remove M.A. As of the date of filing of the Petition, DHS has provided no evidence that it can effectuate M.A.'s removal—any alleged efforts to date have failed. Even if Respondents were to cite the steps it has taken, that would not be enough—as many courts have explained, "[d]iligent efforts alone will not support continued detention"; instead, the government must "make legitimate progress towards removal." *Fadwa v. Lyons*, No. 25-CV-03660-PAB, 2025 WL 3525026 (D. Colo. Dec. 9, 2025) (internal quotations omitted); *see also Ahrach*, 2025 WL 3227529, at *5 (granting petition where government had not received responses from the three countries they contacted); *Aguilar*, 2025 WL 3514282, at *6 (granting petition four months after withholding order where the government's only evidence was their "bare assertions" that they were pursuing third country options); *Vaskanyan v. Janecka,* No. 5:25-CV-01475-MRA-AS, 2025 WL 3050075, at *3 (C.D. Cal. Sept. 10, 2025) (granting fees after successful habeas petition, noting that *Zadvydas* "squarely rejected" government's position that "continued good faith efforts to effectuate deportation" justified indefinite detention); *Lorenzo v. Bondi*, No. 2:25-

[4] Even DHS guidelines require "credible assurances from the third country that the noncitizen will not be persecuted or tortured" before removal, and non-citizens must be given "notice and an opportunity to raise fear-based claims" in the absence of such credible assurances. *Ahrach*, 2025 WL 3227529, at *5 n.10.

CV-00923 KWR-GJF, 2026 WL 84521, at *5 (D.N.M. Jan. 12, 2026) (noting that "unilateral effort without establishing actual progress toward removal" is insufficient justification of indefinite detention).

68. M.A.'s continued detention is illegal both under 8 U.S.C. § 1231(a) and under the Constitution for lack of Due Process. Therefore, this Court should order M.A.'s immediate release. *Morales-Fernandez v. INS*, 418 F.3d 1116, 1124 (10th Cir. 2008) (ordering petitioner's release where "[t]here is no contention that conditions in Cuba have changed so that [the petitioner's] removal to Cuba is reasonably foreseeable," and therefore he must "be released and paroled into the United States.").

II. M.A.'s Detention is Unlawful under Due Process

69. Respondents have detained M.A. for nearly one year after the IJ's withholding order, far beyond both the ninety-day statutory period and the presumptive six-month limit set in *Zadvydas*. Respondents have chosen to continue detention on its boilerplate flight risk finding. Ex. D at 1. To be clear, Respondents never found that M.A. *is* a flight risk—they just claim that M.A. hasn't proven he is not. But under *Zadvydas*, whether or if someone poses a flight risk has "no bearing on the constitutionality of [their] continued detention." *Ahrach*, 2025 WL 3227529 at *5.

70. Respondents' continued detention of M.A. violates Due Process under the *Mathews* factors. *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976). First, M.A. has a considerable private interest, indeed, "the most elemental of liberty interests—the interest in being free from physical detention." *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

71. Second, M.A's continued detention demonstrates a high risk of erroneous deprivation: the government can only speculate on whether it may be able to transfer M.A. to a third country, whereas *Zadvydas* already established that the very justification for M.A.'s

confinement—a flight-risk theory backed by no evidence—is "weak or nonexistent when removal seems a remote possibility." *Zadvydas*, 533 U.S. at 691. Indeed, Respondents' current policy of requiring detained noncitizens to "prove a negative," that they are not a flight risk, creates a risk of erroneous deprivation of their Due Process rights. *Vizguerra-Ramirez v. Baltazar*, No. 25-CV-00881-NYW, 2025 WL 3653158, at *14 (D. Colo. Dec. 17, 2025).

72. Third, Respondents' interest in detention without giving M.A. additional process is low. The effort and cost required to provide him with "procedural safeguards is minimal." *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025). Because any additional burden the government might face by providing M.A. with adequate process does not outweigh his significant liberty interest or risk of erroneous deprivation of liberty, the *Mathews* factors overwhelmingly favor M.A.

73. Finally, M.A.'s detention violates his substantive due process rights because a restraint on liberty is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997); *see also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process Clause] protects.").

74. In sum, M.A.'s continued detention violates Due Process and immediate release is required.

III. Respondents' detention of M.A. violated the APA and the *Accardi* doctrine.

75. Under the Accardi doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings);

see also Morton v. Ruiz, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

76. Regulations governing post-removal custody reviews "do not merely facilitate internal agency housekeeping but rather afford important and imperative procedural safeguards" to people in detention. *Bonitto v. Bureau of Immigr. & Customs Enf't*, 547 F. Supp. 2d 747, 756 (S.D. Tex. 2008) (adopting Magistrate Judge's report and recommendation) (citing *Caceres*, 440 U.S. at 760). "[T]hese [§ 241.4] regulations are intended to provide due process in that they are fairly construed to be part of a procedural framework 'designed to ensure the fair processing of an action affecting an individual,' such that when they are not followed, prejudice is presumed." *Santamaria Orellana v. Baker, No.* 25-1788-TDC, 2025 WL 2444087, at *13 (D. Md. Aug. 25, 2025) (quoting *United States v. Morgan*, 193 F.3d 252, 267 (4th Cir. 1999)) (discussing 8 C.F.R. § 241.4 generally).

77. To continue detention beyond the 90-day removal period, DHS regulations require ICE to conduct a post-order custody review ("POCR") before 90 days or "as soon as possible thereafter." 8 C.F.R. § 241.4 (k)(1)(i)-(iv). DHS must then "notify the [noncitizen] in writing that he or she is to be released from custody or that he or she will be continued in detention pending removal or further review of his or her custody status." 8 C.F.R. § 241.4(k)(1)(i). "A decision to retain custody shall briefly set forth the reasons for the continued custody," 8 C.F.R. § 241.4 (d), and a copy of "any notice or decision that is being served on the [noncitizen]" will also be sent to the attorney of record. 8 C.F.R. § 241.4(d)(3).

78. If the noncitizen is not released following the 90-day custody review, jurisdiction transfers to ICE Headquarters (ICE HQ), 8 C.F.R. § 241.4(c)(2), which must then conduct a custody review before or at 180 days of post-removal order detention. 8 C.F.R. § 241.4(k)(2)(ii). DHS must provide the noncitizen with 30 days' notice prior to this review. *Id.* As with the 90-day review, the ICE HQ is required to issue a "written recommendation [that] shall include a brief statement of the factors that the review panel deems material to its recommendation." 8 C.F.R. § 241.4(i)(5).

79. Respondents have violated, in an arbitrary and capricious manner, critical components of these regulations meant to ensure due process for M.A. Although several detention review checkpoints have come and gone with the extended duration of M.A.'s detention, the sole written decision provided following the 90-day review to M.A. simply states, in boilerplate terms: "ICE has determined to maintain your custody because: you have not demonstrated that, if released, you will not: [p]ose a significant risk of flight pending your removal from the United States." Ex. D. No explanation for the determination is given. It does not appear that Respondents considered the likelihood of removal in the foreseeable future. And after twelve months, there is no evidence that DHS has even conducted the 180-day review (or any meaningful reviews since the IJ's February 2025 order), despite its regulations requiring meaningful reviews at regular intervals. Ex. B, at ¶ 12.

80. M.A. was never told that his release would be conditioned on affirmative proof that he would not pose a flight risk—had this information been provided, M.A. would have taken the opportunity to rebut Respondents' improper presumption of flight risk. Ex. B, at ¶ 13; *see also* ¶ 16. Instead, Respondents told M.A. that an interview would not be necessary to be released and

have since ignored any pleas for an interview as multiple review checkpoints have come and gone. *Id.* at ¶ 12. And there is no indication that any of Respondents' reviews even considered M.A.'s previous counsel's letter explaining why M.A. is not a flight risk, including Casa Marianella's commitment of sponsorship of M.A. Ex. H, at 11-14.

81. Under the APA, a reviewing court should "hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law." 5 U.S.C. § 706(2)(D). Here, Respondents' non-compliance with the process delineated by DHS regulation—8 C.F.R. §§ 241.4(c), (f), (h)(2), (i), (k)—has wrongly resulted in M.A.'s continued detention. Respondents have failed to provide M.A. with any reasons for the prolonged detention, thus depriving M.A. of the means to challenge it. "The essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it." *Matthews*, 424 U.S. at 348 (1976) (cleaned up). "Detention beyond the removal period may be maintained only upon compliance with applicable process," which is contemplated by the regulations to be a "meaningful individualized review." *Misirbekov*, 796 F. Supp. 3d at 439 (finding deprivation of due process where respondent was late on post-order custody reviews and the reasons for detention were "boilerplate and pretextual"); *see also Arostegui Maldonado*, 2025 WL 2280357, at *13 (critiquing ICE officer's statement concluding, "Petitioner is a flight risk because he has been removed from the United States three times" when no further information was provided). By serving M.A. with this boilerplate decision, not based on any facts specific to his case, Respondents have violated M.A.'s procedural due process rights and the APA.

82. Additionally, DHS's explanation appears based on an interpretation of 8 C.F.R. § 241.4(e) that would make the flight-risk factor dispositive of the question of continuing detainment. Such a decision is both in "excess of statutory jurisdiction, authority, or limitations, or short of statutory right" and "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(B), (C). The statute mandates that a noncitizen "shall" be subject to supervision after the 90-day period, and while the Attorney General "may" continue to detain certain non-citizens, such discretion is not unlimited—*Zadvydas* rejected such an interpretation of the statute, as well as the idea that flight risk may be a justification for indefinite detention under the Due Process Clause. *Zadvydas*, 533 U.S. at 691. DHS regulations cannot supersede the constitutional mandates of the Due Process Clause or the statute.

CLAIMS FOR RELIEF

COUNT I
Violation of 8 U.S.C. § 1231(a)(6) and *Zadvydas*
(Unlawful Post-Final Order Detention)

83. Petitioner realleges and incorporates by reference the paragraphs above.

84. The government detains M.A. pursuant to 8 U.S.C. § 1231(a)(6), which governs the detention of noncitizens who have administratively final orders of removal.

85. In *Zadvydas*, the Supreme Court interpreted section 1231(a)(6) to contain an implicit timeframe, authorizing detention only for "a period reasonably necessary to bring about the [noncitizen's] removal from the United States." 533 U.S. at 589. The Court established a six-month period of post-final-order detention. *See id.* at 701. Then, if the noncitizen has good reason to believe he won't be removed in the foreseeable future, the government must provide evidence that removal is likely in the reasonably foreseeable future. *Id.*

86. In the year since M.A.'s removal order became administratively final, the government has failed to identify a single country for removal. As mentioned above, the three countries the government has mentioned to M.A. or his prior counsel to date have either refused or not responded. Ex. L (email from DO Morales). The government's sole rationale for denying release, its assertion of M.A.'s failure to prove he is not a flight risk, is untethered to the specific facts of his case and does not provide a lawful basis for indefinite detention.

87. M.A. cannot be deported to Iran—the only country where he is a citizen—because M.A. was granted withholding of removal to Iran. Ex. A, IJ Order. M.A. has no legal status in or connections to any other country.

88. Because M.A. cannot be removed from the United States in the "reasonably foreseeable future," his continued detention violates 8 U.S.C. § 1231(1). *See Zadvydas*, 533 U.S. at 701.

89. Accordingly, M.A. respectfully requests that this Court order Respondents to immediately release him from detention.

COUNT II
Violation of the Procedural Due Process Clause of the Fifth Amendment of the U.S. Constitution
(Unlawful Post-Final Order Detention)

90. Petitioner realleges and incorporates by reference the paragraphs above.

91. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Cont. amend. V. To comply with the Due Process Clause, civil detention must "bear[] a reasonable relation to the purpose for which the individual was committed," which for immigration detention pursuant to § 1231 is removal from the United States. *Demore*, 538 U.S. at 527 (citing *Zadvydas*, 533 U.S. at 690).

92. The appropriate remedy is an Order from this Court requiring M.A.'s immediate release.

COUNT III
Violation of the Substantive Due Process Clause of the Fifth Amendment of the U.S. Constitution
(Unlawful Post-Final Order Detention)

93. Petitioner realleges and incorporates by reference the paragraphs above.

94. The Fifth Amendment provides that "No person shall . . . be deprived of life, liberty, or property[] without due process of law." U.S. Const. amend. V. Moreover, "The Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

95. The Supreme Court has established that noncitizens in post-final-order detention for more than six months must be released from custody if there is no likelihood that they will be removed in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 699–700.

96. Nearly twelve months have passed since M.A. was granted withholding of removal, yet the government is confining M.A. without any further court proceedings, appellate process, or indication of any plan for removal. Under these circumstances, M.A.'s continued detention is completely untethered to any legal basis. *Id.* at 690 ("where detention's goal is no longer practically attainable, detention no longer bears reasonable relation to the purpose for which the individual was committed."). And at this stage, DHS's refusal to release M.A. is "the exercise of power without any reasonable justification" and a violation of due process principles. *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998).

97. Additionally, third country removal would be unlawful if the person's "life or freedom would be threatened" due to persecution on account of a protected ground, 8 U.S.C. §

1231(b)(3)(A), or if they are likely to face future torture, 8 C.F.R. §§ 208.16(c), 208.17(b)(2), 1208.16(c), 1208.17(b)(2). Pursuant to 8 U.S.C. § 1231(b)(3)(A), courts repeatedly have held that individuals cannot be removed to a country that was not properly designated by an immigration judge if they have a fear of persecution or torture in that country.

98. The indefinite nature of M.A.'s detention under section 1231 violates his substantive due process rights under the Fifth Amendment by depriving him of his "strong liberty interest." *United States v. Salerno*, 481 U.S. 739, 750 (1987).

99. M.A. has had a final-order of removal for nearly a year, and there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future"; therefore, Respondents cannot justify his continued imprisonment. *Zadvydas*, 533 U.S. at 701.

100. Accordingly, M.A. respectfully requests this Court order Respondents to provide immediate release from detention.

COUNT IV
Violation of Fifth Amendment Rights to Due Process, 8 U.S.C. § 1231 and Implementing Regulations, and APA, 5 U.S.C. § 706(2)
(Adequate Notice and a Meaningful Opportunity to Present a Fear-Based Claim)

101. Petitioner realleges and incorporates by reference the paragraphs above.

102. Respondents' detention of M.A while it "continuously" requests removal to some unidentified third country is unlawful because it violates M.A.'s procedural due process rights to raise a fear-based claim. M.A. is entitled to notice and meaningful opportunity to challenge removal to a third country, and depriving M.A. of such opportunity is a violation of the Fifth Amendment to the U.S. Constitution. *See, e.g. Chennah*, 2026 WL 179951, at *2.

103. Respondents' detention of M.A. is unconstitutional because it is untethered from any legal basis for detention and lacks "reasonable justification." *County of Sacramento*, 523 U.S.

at 845. M.A.'s indefinite detention violates his substantive due process rights under the Fifth Amendment given the deprivation of his "strong liberty interest." *Salerno*, 481 U.S. at 750.

104. Agencies must follow their own policies and procedures, particularly when they impact individual rights. *Accardi*, 347 U.S. at 268. Respondents have not done so.

105. The APA empowers courts to set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," contrary to constitutional right, power, privilege, or immunity," "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right" or taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D). Respondents' failure to follow their own regulations in providing M.A. with a meaningful, individualized review, along with its failure to adhere to statutory and constitutional mandates in enforcing their regulations, violate the APA.

106. Respondents have had opportunity after opportunity[5] to live up to the standards of the Constitution and laws, to show its citizens and non-citizens under its jurisdiction alike that the it is unlawful to arrest and detain innocent people for no good reason in the United States. This Court is the only place that can hold Respondents to those standards. M.A. thus has no other adequate remedy at law.

PRAYER FOR RELIEF

[5] M.A.'s case is straightforward in light of recent decisions in this district. *Ahrach*, 2025 WL 3227529 (granting petition where non-citizen detained for over seven months); *Aguilar*, 2025 WL 3514282 (granting petition where cumulative detention was over eight months); *Ali*, 2026 WL 322565 (granting petition where cumulative detention was over six months); *Chennah*, 2026 WL 179951 (granting petition where detention had taken over 209 days); *Fadwa*, 2025 WL 3525026 (granting petition where detention had already lasted ten months). And a recent decision from the District of Minnesota found that federal agencies have violated 96 habeas-related court orders in 74 cases. *Juan T.R. v. Noem*, 0:26-cv-00107-PJS-DLM, 2026 WL 232015, at *1 (Jan. 28, 2026).

WHEREFORE, M.A. respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Enjoin Respondents from transferring M.A. outside of the jurisdiction, the District of Colorado, pending resolution of this case;

c. Pursuant to 28 U.S.C. § 2243, issue an Order to Show Cause or Order to Answer ordering Respondents to show cause within three days why the writ should not be granted;

d. Declare that Respondents' continued detention of M.A. violates the INA, 8 U.S.C. § 1231(a)(6), and the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

e. Declare that Respondents' detention of M.A. violates the Administrative Procedure Act;

f. Grant a writ of habeas corpus directing Respondents to immediately release M.A. on his own recognizance;

g. Enjoin Respondents from imposing additional indefinite conditions of release, such as a Global Positioning System ("GPS") monitor in violation of M.A.'s rights under the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

h. Require Respondents to provide adequate process prior to removing M.A. to any third country or a country to which removal has been deferred;

i. Enjoin and restrain Respondents from re-detaining M.A. unless, bearing the burden of proof, they demonstrate by clear and convincing evidence at a pre-deprivation bond hearing, that M.A. is a flight risk or danger to the community such that his physical custody is legally justified;

j. Award M.A. all costs and reasonable attorneys' fees in this action under the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

k. Grant any further relief as this Court deems just and proper.

Dated: February 23, 2026

Respectfully submitted,

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Pro Bono Counsel for Petitioner-Plaintiff

28 U.S.C. § 2242 VERIFICATION STATEMENT

I, Paul A. Williams hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that, on information and belief, the factual statements in the foregoing Petitioner's Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

Dated: February 23, 2026

CERTIFICATE OF SERVICE

I, Paul Williams, hereby certify that on February 23, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Paul Williams, hereby certify that I have mailed a hard copy of the document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail on February 23, 2026.

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