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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **RIDWAN ABDILAH ABDI,**

13 **Petitioner,**

14 **v.**

15 **KRISTI NOEM, Secretary of the**
16 **Department of Homeland Security,**
17 **PAMELA JO BONDI, Attorney General,**
18 **TODD M. LYONS, Acting Director,**
19 **Immigration and Customs Enforcement,**
20 **JESUS ROCHA, Acting Field Office**
21 **Director, San Diego Field Office,**
22 **CHRISTOPHER LAROSE, Warden at**
23 **Otay Mesa Detention Center,**

24 **Respondents.**

CIVIL CASE NO.:

**Petition for Writ
of
Habeas Corpus**

[28 U.S.C. § 2241]

INTRODUCTION

Ridwan Abdi was ordered removed to Somalia on August 26, 2025. ICE continued to detain him for the next six months. Yet ICE has made no discernable progress in removing him. No ICE officer has ever met with him about his removal. He has never filled out a travel document request. And when he flags down ICE officers to ask for an update, they just say that he has no passport and the Somali consulate hasn't agreed to accept him. Given this total lack of progress, "there is no significant likelihood of removal in the reasonably foreseeable future," Mr. Abdi's detention is no longer statutorily authorized, and this Court must order his immediate release. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

STATEMENT OF FACTS

I. Mr. Abdi has been awaiting removal for six months, with no sign of progress in removing him.

Mr. Abdi was born in Somalia  Exh. A at ¶ 1. He entered the United States on March 15, 2025, at which point he was immediately arrested. *Id.* It took ICE five months to give him a credible fear interview. *Id.* at ¶ 2. When he finally received one, he was found not to have a credible fear, and the IJ affirmed that determination on August 26, 2025, *Id.* He was therefore ordered removed as of that date.

Since then, no ICE employee has had a formal meeting with him to talk about his removal. *Id.* at ¶ 3. But each time ICE officers come into his pod, he tries to ask for updates on his case. *Id.* They always say that they have no new information. *Id.* They say that he doesn't have a Somali passport, and they haven't heard from the embassy. *Id.* No one has ever asked Mr. Abdi to do anything to move the process along, be it filling out paperwork, meeting with the Somali embassy, or providing any other assistance. *Id.* at ¶ 5. Mr. Abdi has never refused

1 a request from ICE. He even asked whether he could be removed to Mexico so
2 that he could escape detention. *Id.* at ¶ 4.

3 **II. The government is carrying out deportations to third countries without**
4 **providing sufficient notice and opportunity to be heard.**

5 Where, as here, ICE cannot remove someone to their country of origin, they
6 have the option of removing them to a third country. The Trump administration
7 reportedly has negotiated with at least 58 countries to accept deportees from other
8 nations. Edward Wong et al, *Inside the Global Deal-Making Behind Trump's*
9 *Mass Deportations*, N.Y. Times, June 25, 2025. On June 25, 2025, the New York
10 Times reported that seven countries—Costa Rica, El Salvador, Guatemala,
11 Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees who are
12 not their own citizens. *Id.* Since then, ICE has carried out highly publicized third
13 country deportations to South Sudan and Eswatini.

14 The Administration has reportedly negotiated with countries to have many
15 of these deportees imprisoned in prisons, camps, or other facilities. The
16 government paid El Salvador about \$5 million to imprison more than 200
17 deported Venezuelans in a maximum-security prison notorious for gross human
18 rights abuses, known as CECOT. *See id.* In February, Panama and Costa Rica
19 took in hundreds of deportees from countries in Africa and Central Asia and
20 imprisoned them in hotels, a jungle camp, and a detention center. *Id.*; Vanessa
21 Buschschluter, *Costa Rican court orders release of migrants deported from U.S.*,
22 BBC (Jun. 25, 2025). On July 4, 2025, ICE deported eight men, including one
23 pre-1995 Vietnamese refugee, to South Sudan. *See Wong, supra*. On July 15, ICE
24 deported five men to the tiny African nation of Eswatini, including one man from
25 Vietnam, where they are reportedly being held in solitary confinement. Gerald
26 Imray, *3 Deported by US held in African Prison Despite Completing Sentences*,
27 *Lawyers Say*, PBS (Sept. 2, 2025). Many of these countries are known for human
28 rights abuses or instability. For instance, conditions in South Sudan are so

1 extreme that the U.S. State Department website warns Americans not to travel
2 there, and if they do, to prepare their will, make funeral arrangements, and appoint
3 a hostage-taker negotiator first. *See Wong, supra*.

4 On June 23 and July 3, 2025, the Supreme Court issued a stay of a national
5 class-wide preliminary injunction issued in *D.V.D. v. U.S. Department of*
6 *Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968, at *1, 3 (D.
7 Mass. Apr. 18, 2025), which required ICE to follow statutory and constitutional
8 requirements before removing an individual to a third country. *U.S. Dep't of*
9 *Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (mem.); *id.*, No. 24A1153, 2025
10 WL 1832186 (U.S. July 3, 2025).¹ On July 9, 2025, ICE rescinded previous
11 guidance meant to give immigrants a “‘meaningful opportunity’ to assert claims
12 for protection under the Convention Against Torture (CAT) before initiating
13 removal to a third country” like the ones just described. Exh. B.

14 Under the new guidance, ICE may remove any immigrant to a third country
15 “without the need for further procedures,” as long as—in the view of the State
16 Department—the United States has received “credible” “assurances” from that
17 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails
18 to credibly promise not to persecute or torture releasees, ICE may still remove
19 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours’
20 notice. But “[i]n exigent circumstances,” a removal may take place in as little as
21

22
23 ¹ Though the Supreme Court’s order was unreasoned, the dissent noted that the
24 government had sought a stay based on procedural arguments applicable only to
25 class actions. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025)
26 (Sotomayor, J., dissenting). Thus, “even if the Government [was] correct that
27 classwide relief was impermissible” in *D.V.D.*, Respondents still “remain[]
28 obligated to comply with orders enjoining [their] conduct with respect to individual
plaintiffs” like Mr. Abdi. *Id.* Thus, the Supreme Court’s decision does not override
courts’ authority to grant individual injunctive relief. *See Nguyen v. Scott*, No. 2:25-
CV-01398, 2025 WL 2419288, at *20–23 (W.D. Wash. Aug. 21, 2025).

1 **I. Count 1: Mr. Abdi's detention violates *Zadvydas* and 8 U.S.C. § 1231.**

2 **A. Legal background**

3 Mr. Abdi's indefinite detention violates the statute authorizing detention, 8
4 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme
5 Court considered a problem affecting people like Mr. Abdi. Federal law requires
6 ICE to detain an immigrant during the "removal period," which typically spans
7 the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-
8 (2). After that 90-day removal period expires, detention becomes discretionary—
9 ICE may detain the migrant while continuing to try to remove them. *Id.*

10 § 1231(a)(6). Ordinarily, this scheme would not lead to excessive detention, as
11 removal happens within days or weeks. But some detainees cannot be removed
12 quickly. Perhaps their removal "simply require[s] more time for processing," or
13 they are "ordered removed to countries with whom the United States does not
14 have a repatriation agreement," or their countries "refuse to take them," or they
15 are "effectively 'stateless' because of their race and/or place of birth." *Kim Ho Ma*
16 *v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other
17 circumstances, detained immigrants can find themselves trapped in detention for
18 months, years, decades, or even the rest of their lives.

19 If federal law were understood to allow for "indefinite, perhaps permanent,
20 detention," it would pose "a serious constitutional threat." *Zadvydas*, 533 U.S. at
21 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by
22 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

23 As an initial matter, *Zadvydas* held that detention is "presumptively
24 reasonable" for at least six months. *Id.* at 701. This acts as a kind of grace period
25 for effectuating removals.

26 Following the six-month grace period, courts must use a burden-shifting
27 framework to decide whether detention remains authorized. First, the petitioner
28 must make a prima facie case for relief: He must prove that there is "good reason

1 to believe that there is no significant likelihood of removal in the reasonably
2 foreseeable future.” *Id.*

3 If he does so, the burden shifts to “the Government [to] respond with
4 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of
5 proof rests with the government: The government must prove that there is a
6 “significant likelihood of removal in the reasonably foreseeable future,” or the
7 immigrant must be released. *Id.*

8
9 **A. The six-month grace period expired.**

10 As an initial matter, the six-month grace period has long since ended. The
11 *Zadvydas* grace period lasts for “*six months* after a final order of removal—that is,
12 *three months* after the statutory removal period has ended.” *Kim Ho Ma v.*
13 *Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Abdi received a final
14 order of removal on August 26, 2025. Exh. A at ¶ 3. Accordingly, his 90-day
15 removal period began then. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period
16 therefore expired three months after the removal period ended, in February 2026.
17 Thus, the threshold requirement is met.

18 **B. There is good reason to believe that there is no significant**
19 **likelihood of Mr. Abdi removal in the reasonably foreseeable**
20 **future.**

21 Because the six-month grace period has passed, this Court must evaluate
22 Mr. Abdi’s *Zadvydas* claim using the burden-shifting framework. At the first
23 stage of the framework, there must be “good reason to believe that there is no
24 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
25 533 U.S. at 701. This standard can be broken down into three parts.

26 “**Good reason to believe.**” The “good reason to believe” standard is a
27 relatively forgiving one. “A petitioner need not establish that there exists no
28 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL

1 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
 2 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
 3 foreseeable, significant likelihood of removal or show that his detention is
 4 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
 5 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
 6 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
 7 Petitioners need only give a “good reason”—not prove anything to a certainty.

8 **“No significant likelihood of removal.”** This component focuses on
 9 whether Mr. Abdi will likely be removed: Continued detention is permissible only
 10 if it is “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*,
 11 533 U.S. at 701. This inquiry targets “not only the *existence* of untapped
 12 possibilities, but also [the] probability of *success* in such possibilities.” *Elashi v.*
 13 *Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In
 14 other words, even if “there remains *some* possibility of removal,” a petitioner can
 15 still meet its burden if there is good reason to believe that successful removal is
 16 not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL
 17 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

18 **“In the reasonably foreseeable future.”** This component of the test
 19 focuses on when Mr. Abdi will likely be removed: Continued detention is
 20 permissible only if removal is likely to happen “in the reasonably foreseeable
 21 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
 22 removal efforts. If the Court has “no idea of when it might reasonably expect
 23 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
 24 is likely to occur—or even that it might occur—in the reasonably foreseeable
 25 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
 26 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
 27 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d
 28 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Abdi

1 “would *eventually* receive” a travel document, he can still meet his burden by
 2 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
 3 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

4 Mr. Abdi satisfies the above standards, because despite his six-month stint in
 5 detention and his complete cooperation with ICE, ICE has made no progress in
 6 removing him to Somalia. Exh. A at ¶¶ 3–4. For months, ICE has been saying that
 7 Mr. Abdi has no passport and the embassy hasn’t responded to ICE’s inquiries. *Id.*
 8 at ¶ 3. And ICE has not put any plan in motion to move the needle on that, whether
 9 by asking Mr. Abdi to fill out forms or meet with the consulate or take any other
 10 steps toward removal. *Id.* at ¶ 5.

11 These are very good reasons to doubt that ICE will succeed in removing him
 12 in the reasonably foreseeable future. Thus, unless the government can prove a
 13 “significant likelihood of removal in the reasonably foreseeable future,” Mr. Abdi
 14 must be released. *Zadvydas*, 533 U.S. at 701.

15 **II. Count 2: ICE may not remove Mr. Abdi to a third country without**
 16 **adequate notice and an opportunity to be heard.**

17 Unable to remove Mr. Abdi to Somalia, ICE may try to remove him to a third
 18 country. If so, it could do so under a policy that violates the Fifth Amendment, the
 19 Convention Against Torture, and implementing regulations.

20 **A. Legal background**

21 U.S. law enshrines protections against dangerous and life-threatening
 22 removal decisions. By statute, the government is prohibited from removing an
 23 immigrant to any third country where they may be persecuted or tortured, a form
 24 of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The
 25 government “may not remove [a noncitizen] to a country if the Attorney General
 26 decides that the [noncitizen’s] life or freedom would be threatened in that country
 27 because of the [noncitizen’s] race, religion, nationality, membership in a particular
 28

1 social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16.
2 Withholding of removal is a mandatory protection.

3 Similarly, Congress codified protections enshrined in the CAT prohibiting
4 the government from removing a person to a country where they would be tortured.
5 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of
6 the United States not to expel, extradite, or otherwise effect the involuntary return
7 of any person to a country in which there are substantial grounds for believing the
8 person would be in danger of being subjected to torture, regardless of whether the
9 person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.*
10 §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

11 To comport with the requirements of due process, the government must
12 provide notice of the third country removal and an opportunity to respond. Due
13 process requires “written notice of the country being designated” and “the statutory
14 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*
15 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S.*
16 *Dep’t of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D.
17 Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

18 The government must also “ask the noncitizen whether he or she fears
19 persecution or harm upon removal to the designated country and memorialize in
20 writing the noncitizen’s response. This requirement ensures DHS will obtain the
21 necessary information from the noncitizen to comply with section 1231(b)(3) and
22 avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at 1019. “Failing to
23 notify individuals who are subject to deportation that they have the right to apply
24 for asylum in the United States and for withholding of deportation to the country to
25 which they will be deported violates both INS regulations and the constitutional
26 right to due process.” *Andriasian*, 180 F.3d at 1041.

27 If the noncitizen claims fear, measures must be taken to ensure that the
28 noncitizen can seek asylum, withholding, and relief under CAT before an

1 immigration judge in reopened removal proceedings. The amount and type of
2 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
3 circumstances, he would have a reasonable opportunity to raise and pursue his
4 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
5 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
6 F.3d 405, 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring the
7 government to move to reopen the noncitizen’s immigration proceedings if the
8 individual demonstrates “reasonable fear” and to provide “a meaningful
9 opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening
10 of their immigration proceedings” if the noncitizen is found to not have
11 demonstrated “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice
12 and time for a respondent to file a motion to reopen and seek relief).

13 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
14 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
15 for good reason: To have a meaningful opportunity to apply for fear-based
16 protection from removal, immigrants must have time to prepare and present
17 relevant arguments and evidence. Merely telling a person where they may be sent,
18 without giving them a chance to look into country conditions, does not give them a
19 meaningful chance to determine whether and why they have a credible fear.

20 **B. The June 6, 2025 memo’s removal policies violate the Fifth**
21 **Amendment, 8 U.S.C. § 1231, the Conviction Against Torture, and**
22 **Implementing Regulations.**

23 The policies in the June 6, 2025 memo do not adhere to these requirements.
24 First, under the policy, ICE need not give immigrants *any* notice or hearing before
25 removing them to a country that—in the State Department’s estimation—has
26 provided “credible” “assurances” against persecution and torture. Exh. B. By
27 depriving immigrants of any chance to challenge the State Department’s view, this
28 policy violates “[t]he essence of due process,” “the requirement that a person in

1 jeopardy of serious loss be given notice of the case against him and opportunity to
2 meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

3 Second, even when the government has obtained no credible assurances
4 against persecution and torture, the government can still remove the person with
5 between 6 and 24 hours’ notice, depending on the circumstances. Exh. B.
6 Practically speaking, there is not nearly enough time for a detained person to assess
7 their risk in the third country and marshal evidence to support any credible fear—let
8 alone a chance to file a motion to reopen with an IJ. An immigrant may know
9 nothing about a third country, like Eswatini or South Sudan, when they are
10 scheduled for removal there. Yet if given the opportunity to investigate conditions,
11 immigrants would find credible reasons to fear persecution or torture—like patterns
12 of keeping deportees indefinitely and without charge in solitary confinement or
13 extreme instability raising a high likelihood of death—in many of the third
14 countries that have agreed to removal thus far. Due process requires an adequate
15 chance to identify and raise these threats to health and life. This Court must prohibit
16 the government from removing Mr. Abdi without these due process safeguards.

17 **III. This Court must hold an evidentiary hearing on any disputed facts.**

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

21 **IV. Prayer for relief**

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

- 23 1. Order Respondents to immediately release Petitioner from custody;
24 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
25 § 1231(a)(6) unless and until Respondents obtain a travel document for
26 his removal;
27 3. Enjoin Respondents from removing Petitioner to any country other than
28 Somalia unless they provide the following process, *see D.V.D. v. U.S.*

1 *Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1453640, at
2 *1 (D. Mass. May 21, 2025):

- 3 a. written notice to both Petitioner and Petitioner's counsel in a
4 language Petitioner can understand;
5 b. a meaningful opportunity, and a minimum of ten days, to raise a
6 fear-based claim for CAT protection prior to removal;
7 c. if Petitioner is found to have demonstrated "reasonable fear" of
8 removal to the country, Respondents must move to reopen
9 Petitioner's immigration proceedings;
10 d. if Petitioner is not found to have demonstrated a "reasonable fear"
11 of removal to the country, a meaningful opportunity, and a
12 minimum of fifteen days, for the Petitioner to seek reopening of his
13 immigration proceedings.
14 4. Order all other relief that the Court deems just and proper.

15
16 Respectfully submitted,

17
18 Dated: March 5, 2026

s/ Katie Hurrelbrink

KATIE HURRELBRINK

Federal Defenders of San Diego, Inc.

Email: Katie_Hurrelbrink@fd.org

PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney's Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: March 5, 2026

/s/ Katie Hurrelbrink
Katie Hurrelbrink