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12 *Attorneys for Petitioners*

13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF ARIZONA

15 Abdul Wahab Adeli; Christelle Etsang;
Karimullah Rahmatullah; Zahra Madadi;
16 Mohadese Norouzi; Midia Ghadami;
Celestin Dima; Divine Asoba Njukeng;
and Segundo Benavente Lincura,

17 Petitioners,

18 v.

19 Eric Rokosky, in his official capacity as
20 Facility Administrator of the Eloy
Detention Center; Christopher D.
21 McGregor, in his official capacity as
Phoenix Field Office Director for U.S.
22 Immigration and Customs Enforcement;
Todd Lyons, in his official capacity as
23 Acting Director of U.S. Customs and
Immigration Enforcement; Kristi Noem,
24 in her official capacity as acting
Secretary of the Department of
25 Homeland Security; and Pamela Bondi,
26 in her official capacity as Attorney
General of the United States,

27 Respondents.

Case No.

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

I. INTRODUCTION

1
2 1. This is a group habeas petition and complaint for declaratory and injunctive
3 relief. Petitioners are nine individuals who were granted withholding of removal (“WOR”)
4 to their respective countries of origin: Iran, Afghanistan, Burkina Faso, Cameroon, and
5 Chile. Although they cannot lawfully be removed to their home countries, and though
6 Respondents have not informed them of imminent plans to remove them to safe third
7 countries, Petitioners are being indefinitely detained at the Eloy Detention Center in Eloy,
8 Arizona.

9 2. Petitioners’ continued detention is unlawful under 8 U.S.C. § 1231(a),
10 *Zadvydas v. Davis*, 533 U.S. 678 (2001), 8 C.F.R. § 241.4, the Administrative Procedure
11 Act (“APA”) under 5 U.S.C. § 706, and the Fifth Amendment’s Due Process Clause. Under
12 *Zadvydas*, DHS cannot detain a removable noncitizen for a period longer than is
13 “*reasonably necessary* to secure the alien’s removal.” 533 U.S. at 682. Petitioners have all
14 been detained for longer than is authorized by statute, and all have been detained for far
15 longer than reasonably necessary.

16 3. Additionally, Petitioners believe they are in imminent danger of being
17 unlawfully removed to dangerous third countries where they are likely to either be
18 persecuted and tortured or else be repatriated back to their home countries, where they are
19 objectively likely to be persecuted, tortured, or even killed. Petitioners’ belief that they
20 will be removed to a dangerous third country is well founded: the Department of
21 Homeland Security (“DHS”) has a newly instituted policy of sending immigrants such as
22 Petitioners to dangerous third countries without first providing them with an opportunity
23 to demonstrate that they will suffer harm in those third countries. Under its current third-
24 country-removal policy, DHS routinely sends noncitizens to countries that are hotbeds for
25 human rights violations for which Petitioners would have independently cognizable WOR
26 claims. This third-country policy offends the Constitution’s guarantee of due process and
27 places all Petitioners at risk of imminent harm, as many courts have found.

1 4. Four Petitioners—Adeli, Etsang, Dima, and Lincura—have been detained
2 for longer than 180 days (the “over-180 Petitioners”). These Petitioners have been
3 detained far longer than allowed by *Zadvydas* and merit immediate release from custody.

4 5. Five other Petitioners—Ghadami, Madadi, Norouzi, Njukeng, and
5 Rahmatullah—will reach the 180-day mark within the next few months (the “sub-180
6 Petitioners”).¹

7 6. There is no significant likelihood that any Petitioners will be removed in the
8 reasonably foreseeable future because an immigration judge has already granted
9 protection against removal to Petitioners’ countries of origin after they established a strong
10 likelihood that they would be persecuted or tortured in such countries. Conditions in their
11 respective countries of origin have not improved, and Immigration and Customs
12 Enforcement (“ICE”) cannot locate suitable, alternative third countries where they would
13 not suffer harm if removed. All Petitioners, therefore, merit immediate release because
14 their removal is not reasonably foreseeable.

15 7. Per its regulations, ICE must conduct a custody review for each Petitioner
16 after they have been detained for more than 90 days. If continued detention is found to be
17 warranted, then ICE is required to conduct another custody review after 180 days of
18 detention. During each custody review, ICE must consider a list of factors enumerated in
19 8 C.F.R. § 241.4(f). All Petitioners have been detained for a period longer than 90 days,
20 yet some Petitioners have not received 90- or 180-day reviews. And those that have
21 received what ICE purports to be a “review” have not been afforded the requisite process
22 demanded by the agency’s own regulations.

23 8. Federal district courts across the country have been inundated with
24 immigration habeas petitions since early 2025 due to ICE’s unlawful detention and
25 removal practices. As a matter of judicial efficiency, courts routinely hear group petitions
26

27 ¹ Ghadami will be detained for 180 days on March 31, 2026; Madadi on April 29, 2026;
28 Norouzi on May 6, 2026; Njukeng on June 19, 2026; and Rahmatullah on June 23, 2026.
See infra, ¶ 107.

1 and grant relief accordingly. *See Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025
2 WL 2581185, at *9 (E.D. Cal. Sept. 5, 2025). The District of Arizona, in the past few
3 months alone, has granted dozens of habeas petitions—ordering the release of the
4 petitioners—in cases with factually and legally similar claims to Petitioners’ claims.²

5 II. JURISDICTION AND VENUE

6 9. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because
7 this Petition arises under the Constitution and laws of the United States, namely the
8 detention provisions of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1231;
9 the accompanying regulations codified at 8 C.F.R. § 241.4; the habeas corpus statute, 28
10 U.S.C. § 2241; and the Due Process Clause of the Fifth Amendment.

11 10. This Court may grant relief pursuant to the Habeas Corpus Act, 28 U.S.C.
12 § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201; the All Writs Act, 28 U.S.C.
13 § 1651; and the Court’s inherent equitable powers.

14 11. Federal district courts have jurisdiction to hear habeas claims brought by
15 noncitizens challenging the lawfulness of their detention. *Zadvydas v. Davis*, 533 U.S.
16 678, 687 (2001).

17 12. Federal courts also have federal question jurisdiction under the
18 Administrative Procedure Act (“APA”) to “hold unlawful and set aside agency action”
19 that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
20 law.” 5 U.S.C. § 706(2)(A). An APA claim is actionable in the habeas context. 5 U.S.C.
21 § 703 (stating the APA permits judicial review of agency action by “any applicable form
22 of legal action, including actions for declaratory judgments or writs of prohibitory or
23 mandatory injunction or habeas corpus”). The APA affords the right of review to any
24 person “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702.

25 13. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28
26 U.S.C. § 1391(b)(2) and (e)(1) because at the time of filing Petitioners were detained in
27

28 ² *See infra*, ¶ 39.

1 the Eloy Detention Center in Eloy, Arizona, within the jurisdiction of this Court; a
2 substantial part of the events and omissions giving rise to the claim occurred in this
3 district; Respondents Erik Rokosky and Christopher D. McGregor reside in this district;
4 and all Respondents are officers of the United States acting in their official capacity.

5 14. Exhaustion of administrative remedies is not required because it would be
6 futile. *See Castillo-Villagra v. I.N.S.*, 972 F.2d 1017, 1024 (9th Cir. 1992).

7 III. PARTIES

8 15. Petitioner Abdul Wahab Adeli is a 27-year-old citizen of Afghanistan who
9 was granted WOR and is being detained by Respondents at the Eloy Detention Center in
10 Eloy, Arizona.

11 16. Petitioner Celestin Dima is a 32-year-old citizen of Burkina Faso who was
12 granted WOR and is being detained by Respondents at the Eloy Detention Center in Eloy,
13 Arizona.

14 17. Petitioner Christelle Etsang is a 37-year-old citizen of Cameroon who was
15 granted WOR and is being detained by Respondents at the Eloy Detention Center in Eloy,
16 Arizona.

17 18. Petitioner Midia Ghadami is a 36-year-old citizen of Iran who was granted
18 WOR and is being detained by Respondents at the Eloy Detention Center in Eloy, Arizona.

19 19. Petitioner Zahra Madadi is a 29-year-old citizen of Iran who was granted
20 WOR and is being detained by Respondents at the Eloy Detention Center in Eloy, Arizona.

21 20. Petitioner Mohadese Norouzi is a 26-year-old citizen of Iran who was
22 granted WOR and is being detained by Respondents at the Eloy Detention Center in Eloy,
23 Arizona.

24 21. Petitioner Divine Asoba Njukeng is a 29-year-old citizen of Cameroon who
25 was granted WOR and is being detained by Respondents at the Eloy Detention Center in
26 Eloy, Arizona.

1 22. Petitioner Karimullah Rahmatullah is a 31-year-old citizen of Iran who was
2 granted WOR and is being detained by Respondents at the Eloy Detention Center in Eloy,
3 Arizona.

4 23. Petitioner Segundo Benavente Lincura is a 46-year-old citizen of Chile who
5 was granted WOR and is being detained by Respondents at the Eloy Detention Center in
6 Eloy, Arizona.

7 24. Respondent Eric Rokosky is the Facility Administrator of the Eloy
8 Detention Center, which detains individuals suspected of civil immigration violations
9 pursuant to a contract with ICE, a department within DHS. Rokosky is the immediate
10 physical custodian responsible for Petitioners' detention. He is named in his official
11 capacity.

12 25. Respondent Christopher D. McGregor is the director of ICE's Phoenix Field
13 Office, which is responsible for ICE activities in Arizona and is responsible for the Eloy
14 Detention Center. McGregor's place of business is in the District of Arizona, and he is an
15 immediate legal custodian responsible for Petitioners' detention. He is named in his
16 official capacity.

17 26. Respondent Todd Lyons is the Acting Director of ICE. He is responsible for
18 ICE's policies, practices, and procedures, including those relating to detention of
19 immigrants during the removal process. Lyons is Petitioners' legal custodian and is named
20 in his official capacity.

21 27. Respondent Kristi Noem is the DHS Secretary. She is named in her official
22 capacity. Noem is responsible for the administration of the immigration laws pursuant to
23 8 U.S.C. § 1103(a)(1).

24 28. Respondent Pamela J. Bondi is the Attorney General of the United States.
25 She is named in her official capacity.

IV. BACKGROUND

A. Factual Background

29. The laws of the United States grant noncitizen detainees concrete procedural and substantive rights. 8 U.S.C. § 1231(a); 8 C.F.R. § 241.4; 5 U.S.C. § 706; U.S. Const. amend. V. These rights include, among other things, the right to be free from indefinite detention, the right to receive routine custody reviews, the right to receive adequate notice and process before removal to a third country, and the right to be confined under humane conditions. Federal courts, where they have jurisdiction, are tasked with the responsibility of ensuring that the Government does not violate these rights.

30. DHS data shows that as of mid-January 2026, there were over 70,000 noncitizens in ICE detention, 7,252 of which were in custody for at least six months, including 79 held for longer than two years in clear violation of *Zadvydas*.³

31. Conditions in immigration centers are often substandard and inhumane. For example, Amnesty International has documented “inhuman[e] and degrading treatment” at a detention center in Florida dubbed “Alligator Alcatraz,” where civil detainees endure “overflowing toilets with fecal matter seeping into where people are sleeping, limited access to showers, exposure to insects without protective measures, lights on 24 hours a day, poor quality food and water, and lack of privacy.”⁴ At Alligator Alcatraz, access to medical care is “inadequate, or denied altogether,” and detainees have reported degrading conditions, “including being put in the ‘box,’ [which is] described as a 2x2 foot cage-like structure people are put in as punishment—sometimes for hours at a time exposed to the elements.”⁵ Another notorious example is an ICE detention center in El Paso, Texas,

³ Gisela Salomon, *Migrants Face Dire Conditions and Prolonged Waits in U.S. Detention Centers*, PBS NEWS (Feb. 9, 2026), <https://www.pbs.org/newshour/nation/migrants-face-dire-conditions-and-prolonged-waits-in-u-s-detention-centers>.

⁴ See Amnesty Int’l, *Torture and Enforced Disappearances in the Sunshine State: Human Rights Violations at “Alligator Alcatraz” and Krome in Florida* 6 (2025), <https://www.amnestyusa.org/wp-content/uploads/2025/12/Torture-and-Enforced-Disappearances-in-the-Sunshine-State-Human-Rights-Violations-at-Alligator-Alcatraz-and-Krome-in-Florida.pdf>; see also Salomon, *supra* n.3.

⁵ Amnesty Int’l, *supra* n. 4.

located at “a site formerly used as an internment camp for Japanese Americans.”⁶ Noncitizen detainees there are subjected to extreme temperatures, “rotten food, inadequate access to water, improper medical care, and physical abuse.”⁷ Three detainees have died at the El Paso detention center since August 2025.⁸

32. More broadly, ICE’s detention centers are overcrowded due to an enormous increase in immigration enforcement across the nation.⁹ This overcrowding—and the lack of resources caused by the influx of detainees—is reaping deadly consequences: as of March 2026 (the beginning of FY 2026), 23 people have died in ICE custody since October 2025, which is more detainees than in all of FY 2025.¹⁰ And FY 2025 was itself the deadliest year for people in immigration custody since 2004.

33. Conditions at the ICE detention center in Eloy, Arizona, where Petitioners are detained, are no better. Detainees in Eloy are experiencing “medical neglect, mistreatment during mental health crises, broken air conditioning in the midst of the Arizona summer, verbal and physical abuse by guards, and aggressive and invasive strip searches.”¹¹ People detained at Eloy fear they will die there.¹² These fears are based in

⁶ Lauren-Brooke Eisen, *How ICE’s Budget Boom Is Changing Immigration Detention* (Feb. 24, 2026), <https://www.brennancenter.org/our-work/research-reports/how-ices-budget-boom-changing-immigration-detention>.

⁷ *Id.*

⁸ Eisen, *supra* n.6.

⁹ Jasmine Garsd, *In Recorded Calls, Reports of Overcrowding and Lack of Food at ICE Detention Centers* NPR (June 6, 2025), <https://www.npr.org/2025/06/05/nx-s1-5413364/concerns-over-conditions-in-u-s-immigration-detention-were-hearing-the-word-starving>; Vera Institute, *More People Are in Immigration Detention Than Ever Before* (Oct. 2, 2025), <https://www.vera.org/news/more-people-are-in-immigration-detention-than-ever-before>.

¹⁰ Ximena Bustillo & Rahul Mukherjee, *Immigration Detention on Track for Deadliest Fiscal Year Since 2004* NPR (Mar. 10, 2026), <https://www.npr.org/2026/03/10/g-s1-111238/immigration-detention-deaths-custody>.

¹¹ Florence Immigrant & Refugee Rights Project, *Medical Neglect, Strip Searches, and Abuse: Deadly and Dehumanizing Conditions in the Eloy Detention Center* (Jan. 6, 2026) (chronicling complaints received by more than sixty people detained at Eloy over a six-month period), <https://firrp.org/medical-neglect-strip-searches-and-abuse-deadly-and-dehumanizing-conditions-in-the-elay-detention-center-june-2024-november-2025/>.

¹² *Id.*; Cronkite News, *‘I Think I’m Going to Die in Here’: In the Wake of Deaths at Eloy Detention Center, Immigration Rights Advocates Worry About a Lack of Progress* (Mar.

1 reality. A nearby immigration detention facility in Florence, Arizona, is quietly managing
 2 a measles outbreak.¹³ And, just weeks ago, a 56-year-old Haitian man detained at the in
 3 Florence died from preventable causes after ICE failed to provide adequate medical care.¹⁴

4 34. Petitioners have all have been granted WOR and thus cannot be removed to
 5 their home countries, yet they are still detained in dangerous conditions at the Eloy
 6 Detention Center. WOR is a form of relief from removal created by Congress in 1980 to
 7 comply with the United States' international commitment not to "expel or return
 8 ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his
 9 life or freedom would be threatened on account of his race, religion, nationality,
 10 membership of a particular social group or political opinion." *I.N.S. v. Cardoza-Fonseca*,
 11 480 U.S. 421, 429 & n.7 (1987). To qualify for WOR, noncitizens must show that their
 12 "life or freedom would be threatened in" their country of origin "because of [their] race,
 13 religion, nationality, membership in a particular social group, or political opinion." 8
 14 U.S.C. § 1231(b)(3)(A). WOR requires a "clear probability" of persecution—meaning
 15 applicants must "demonstrate that harm would be more likely than not to occur"—which
 16 "is a more stringent burden of proof than the standard for asylum." *Garcia v. Wilkinson*,
 17 988 F.3d 1136, 1146 (9th Cir. 2021). An additional type of WOR, recognized by the United
 18 States in accordance with the United Nations' Convention Against Torture ("CAT"),
 19 requires a noncitizen to "establish that it is more likely than not that he or she would be

20
 21 3, 2026), <https://cronkitenews.azpbs.org/2026/03/03/eloy-detention-center-detainee-treatment/>.

22 ¹³ Emily Bregel, *Measles Outbreak at ICE Detention Centers in Arizona Prompts*
 23 *Quarantine*, Tucson.com (Feb. 1, 2026), https://tucson.com/news/local/border/article_637bb63e-44f4-4987-a206-2f1792274922.html

24 ¹⁴ Emily Bregel, *'Totally Unnecessary' Death: Family of Arizona ICE Detainee Demands*
 25 *Investigation*, Tucson.com (Mar. 13, 2026), https://tucson.com/news/local/border/article_02728e92-1db8-4dde-bb51-90c5f7689a46.html; see also Letter from Sen. Edward J.
 26 Markey, Sen. Elizabeth Warren, & Rep. Ayanna Pressley to DHS Secretary Kristi Noem
 27 (Mar. 5, 2026) (writing "to demand answers on ICE's treatment of Mr. Damas and to ask
 28 ICE to conduct a full investigation into the circumstances surrounding his death"),
https://pressley.house.gov/wp-content/uploads/2026/03/letter_to_admin_regarding_emmanuel_damas1.pdf.

1 tortured if removed to the proposed country of removal.” 8 C.F.R. § 208.16(c)(2). Both
2 types of WOR are unavailable to any noncitizen who was convicted “of a particularly
3 serious crime” or who is “a danger to the community of the United States.” 8 U.S.C.
4 § 1231(a)(3)(B)(ii).

5 35. Prior to January 2025, WOR recipients would typically be released and
6 given a work permit; now, they typically “languish[] in jail” on the off-chance that DHS
7 may find a country other than their home country that will accept them.¹⁵ ICE’s current
8 work to deport WOR recipients to third countries is driven by a memorandum issued by
9 Respondent Noem on March 30, 2025, entitled “Guidance Regarding Third Country
10 Removals” (the “Noem Memo”).¹⁶ The Noem Memo was renewed by a July 9, 2025
11 memorandum issued by Respondent Lyons (the “Lyons Memo”).¹⁷ These memos instruct
12 DHS officials to summarily remove noncitizens—“without the need for further
13 procedures”—to countries that have provided credible diplomatic assurances to the U.S.
14 Department of State that they will not persecute or torture any detainees. Lyons Memo
15 at 1. The memos also authorize ICE to deport a noncitizen to a third country that has *not*
16 credibly disclaimed an intent to torture or persecute any deportees if ICE gives that
17 noncitizen notice of the removal at least twenty-four hours in advance. *Id.* The Lyons
18 Memo specifies that ICE officers executing such a removal “will *not* affirmatively ask
19 whether the [noncitizen] is afraid of being removed to the country of removal.” *Id.*
20 (emphasis in original). But if a detained noncitizen has the wherewithal to tell ICE that
21 they fear being removed to a specific third country, then the memos instruct ICE to refer
22
23

24 ¹⁵ See, e.g., Salomon, *supra* n.3.

25 ¹⁶ Kristi Noem, *Guidance Regarding Third Country Removals*, DHS (Mar. 30, 2025),
26 https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.43.1_1.pdf.

27 ¹⁷ ICE Director Todd Lyons, *Third Country Removals Following the Supreme Court’s*
28 *Order in Department of Homeland Security v. D. V. D.* (July 9, 2025),
<https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.190.1.pdf>.

1 the noncitizen to U.S. Citizenship and Immigration Services (“USCIS”) for asylum
2 screening. Lyons Memo at 2.

3 36. Because of the risks presented by speedy third-country removals, numerous
4 courts have found the procedures in the Noem and Lyons Memos violate fundamental
5 principles of due process by allowing DHS to remove a WOR recipient to a third country
6 without first providing that individual a real opportunity to demonstrate a likelihood of
7 persecution or torture in the third country. *See, e.g., Martinez v. Bondi*, No. 1:25-CV-
8 01633-EFB (HC), 2025 WL 3650477, at *5 (E.D. Cal. Dec. 16, 2025) (“Numerous courts
9 have found that ICE’s policy for effectuating third-country removals, as set forth in the
10 [Lyons] Memorandum, on its face violates the requirements of due process as guaranteed
11 in the Fifth Amendment.”); *Esmail v. Noem*, No. 2:25-CV-08325-WLH-RAO, 2025 WL
12 3030589, at *7 (C.D. Cal. Sep. 26, 2025) (noting the habeas “request is in line with several
13 courts which have found this [DHS] policy likely to be violative of due process” (internal
14 citations omitted)); *Nguyen v. Scott*, 796 F. Supp. 3d 703, 727–29 (W.D. Wash. 2025)
15 (granting preliminary injunction because the petitioner was likely to succeed on the merits
16 by showing his removal pursuant to the Noem Memo “would violate due process”);
17 *Nadari v. Bondi*, No. 2:25-CV-07893-JLS-BFM, 2025 WL 2934514, at *2–4 (C.D. Cal.
18 Sep. 3, 2025) (same); *Delkash v. Noem*, No. 5:25-CV-01675-HDV-AGRX, 2025 WL
19 2377123, at *1 (C.D. Cal. July 14, 2025) (same); *Morales Sanchez v. Bondi*, No. 5:25-CV-
20 02530-AB-DTB, 2025 WL 3651899, at *6–7 (C.D. Cal. Dec. 5, 2025) (agreeing with
21 *Esmail* to conclude that the procedures set forth in Noem Memo would violate due
22 process); *Azzo v. Noem*, No. 3:25-CV-03122-RBM-BJW, 2025 WL 3535208, at *8 (S.D.
23 Cal. Dec. 10, 2025) (adopting reasoning of *Esmail*).

24 37. In particular, on February 26, 2026, after a lengthy procedural history, the
25 U.S. District Court for the District of Massachusetts set aside DHS’s third-country
26 removal policy, as embodied by the Noem Memo and the Lyons Memo, and declared it
27 unlawful under 8 U.S.C. § 1231, the Due Process Clause of the Fifth Amendment, and 5
28 U.S.C. § 706(2)(A). *D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. CV 25-10676-BEM, 2026

1 WL 521557, at *44 (D. Mass. Feb. 25, 2026). The Court characterized DHS’s policy as
 2 follows: “[DHS] has adopted a policy whereby it may take people and drop them off in
 3 parts unknown—in so-called ‘third countries’—and, ‘as long as the Department doesn’t
 4 already know that there’s someone standing there waiting to shoot . . . that’s fine.” *Id.*
 5 at *1 (citation omitted). The court continued: “This new policy—which purports to stand
 6 in for the protections Congress has mandated—fails to satisfy due process for a raft of
 7 reasons, not least of which is that nobody really knows anything about these purported
 8 ‘assurances.’ Whom do they cover? What do they cover? Why has the Government
 9 deemed them credible? How can anyone even know for certain that they exist? These are
 10 basic questions that the Constitution permits a person to ask before the Government takes
 11 away their last and only lifeline.” *Id.* at *2. Unequivocally, the Court declared that DHS’s
 12 policy “is not fine, nor is it legal.” *Id.* at *1.

13 38. As a result of ICE’s persistent violations of noncitizens’ rights, federal
 14 district courts across the United States have witnessed a surge of immigration habeas
 15 petitions filed within the past year, and particularly, within the past couple of months.¹⁸
 16 This flood of habeas petitions follows an executive policy making individuals who crossed
 17 the border without authorization ineligible for bond, resulting in prolonged detention
 18 during the pendency of their legal proceedings.¹⁹ Over 28,405 habeas petitions related to
 19 immigration detention have been filed in district courts throughout the country since
 20 January 2025.²⁰ The District of Arizona alone saw 993 of those cases.²¹

21 39. Judges in the District of Arizona have granted relief in dozens of
 22 immigration habeas petitions in the past few months in response to the proliferation of
 23 legal abuse at the hands of DHS. See *Ebietoe v. Figueroa*, No. CV-26-00814-PHX-DWL

24 ¹⁸ See Miriam Jordan & Devlin Barrett, *Federal Court Undercut Trump’s Mass*
 25 *Deportation Campaign*, N.Y. Times (Feb. 1, 2026), <https://www.nytimes.com/2026/02/01/us/habeas-corpus-detainee-immigrant-trump-federal-courts.html>.

26 ¹⁹ *Id.*

27 ²⁰ Ruth Talbot, Pratheek Rebala, & Carla Astudillo, *Tracking Habeas Cases*, ProPublica
 (Mar. 9, 2026), <https://projects.propublica.org/habeas-tracker/>

28 ²¹ *Id.*

(JZB) slip. op. (D. Ariz. Mar. 9, 2026); *Vu v. Rivas*, No. CV-26-00336-PHX-JJT (JFM) slip. op. (D. Ariz. Mar. 6, 2026); *Lavreniuk v. Rivas*, No. CV-26-00424-PHX-DJH (DMF) slip. op. (D. Ariz. Mar. 5, 2026); *Ha v. Thompson*, No. CV-26-00340-PHX-DWL (JZB) slip. op. (D. Ariz. Mar. 5, 2026); *Couch v. Rokosky*, No. CV-26-00437-PHX-KML (MTM) slip. op. (D. Ariz. Mar. 4, 2026); *Nisha v. Figueroa*, 2:26-cv-1259-KML-ASB slip. op. (D. Ariz. Mar. 4, 2026); *Torres v. McGregor*, No. CV-26-01259-PHX-KML (ASB) slip. op. (D. Ariz. Mar. 4, 2026); *Bernadette v. Figueroa*, No. CV-26-01256-PHX-SHD (JZB) slip. op. (D. Ariz. Mar. 3, 2026); *Veloz v. U.S. Dep't of Homeland Sec.*, No. CV-26-01140-PHX-JJT (DMF) slip. op. (D. Ariz. Mar. 3, 2026); *Balash v. Rokowsky*, No. CV-26-01143-PHX-SHD (CDB) slip. op. (D. Ariz. Mar. 2, 2026); *Binda v. Rokowsky*, No. CV-26-01038-PHX-DJH (JZB) slip. op. (D. Ariz. Feb. 24, 2026); *Yu v. Rokowsky*, No. CV-26-00856-PHX-KML (DMF) slip. op. (D. Ariz. Feb. 17, 2026); *Olarte v. Rivas et.al.*, No. CV-25-01662-PHX-DLR (ESW) slip. op. (D. Ariz. Oct. 30, 2025).

40. Petitioners have a concrete, present fear of being removed to an unsafe third country. To receive WOR, Petitioners had to prove there was a strong likelihood that they will be persecuted, tortured, and even killed in their home country. *D.A. v. Noem*, 800 F. Supp. 3d 43, 45 (D.D.C. 2025) (explaining that WOR applicants must navigate “an extensive immigration process” and prove “they [a]re more likely than not to face persecution, torture, or death if they were returned to their home countries”). Removal to a third country, quite simply, is dangerous if the same conditions placing a WOR recipient at risk in their home country are also present in the third country.

41. Even putting aside unsafe conditions in a third country, WOR recipients are imperiled by third-country removal if they are sent to a country that decides to simply repatriate them to their home country. *D.A.*, 800 F. Supp. 3d at 53 (noting “the dire consequences [WOR recipients] face if they are repatriated” to their home country by a third country). Members of the U.S. Senate Committee on Foreign Relations recently published a report showing that the Trump Administration’s expansive efforts to deport detained noncitizens to third countries abridge many rights held by noncitizens and “evade

1 the government's legal obligations by doing indirectly what it cannot do directly."²² *D.A.*,
 2 800 F. Supp. 3d at 46. The report recounts many instances in which DHS has removed
 3 WOR recipients to third countries which, in turn, quickly repatriated those persons back
 4 to their home countries, in violation of the United States' nonrefoulement²³ obligation.

5 42. In many recent federal court cases, "individuals—many of them children—
 6 were hastily rounded up [by ICE] and put on planes without valid removal orders, and
 7 with no notice or opportunity to challenge their removal." *See D.A.*, 800 F. Supp. 3d at 46
 8 (collecting similar cases). The *D.A.* court noted that it was "alarmed and dismayed by the
 9 circumstances under which these removals are being carried out, especially in light of the
 10 government's cavalier acceptance of [the plaintiffs'] ultimate transfer to countries where
 11 they face torture and persecution." *Id.* at 53. The Senate Committee on Foreign Relations'
 12 report notes that even when a foreign government "assures" the United States that it will
 13 not subject deportees to human rights violations, as required by the Noem and Lyons
 14 Memos, these "assurances made by foreign governments exist only on paper and [] the
 15 United States is turning a blind eye to what happens to migrants in third countries."²⁴
 16 Similarly, Refugees International and Human Rights First have created a resource
 17 chronicling how DHS's third-country-removal policy dangerously sends "asylum seekers
 18 and other immigrants—with almost no warning and little chance to raise fears of
 19 persecution—to countries with which they have no ties and where many are subject to

23 ²² U.S. Committee on Foreign Relations, *At What Cost? Inside the Trump Administration's*
 24 *Secret Deportation Deals*, Senate Foreign Relations Committee Minority Report (Feb.
 25 2026), [https://www.foreign.senate.gov/imo/media/doc/\(FINAL%20-%20web\)%20At%20What%20Cost%20-%20Inside%20the%20Trump%20Administration%27s%20Secret%20Deportation%20Deals_2.17.26.pdf](https://www.foreign.senate.gov/imo/media/doc/(FINAL%20-%20web)%20At%20What%20Cost%20-%20Inside%20the%20Trump%20Administration%27s%20Secret%20Deportation%20Deals_2.17.26.pdf).

26 ²³ Refoulement, a term of art in asylum law, is "the act of forcing a refugee or asylum
 27 seeker to return to a country or territory where they are likely to face persecution."
 28 *Refoulement*, Merriam Webster, <https://www.merriam-webster.com/dictionary/refoulement> (last visited Mar. 19, 2026).

²⁴ *See At What Cost?* at 19, *supra* n.23.

1 grave mistreatment including arbitrary detention, torture, or return to danger in the very
2 countries they once fled.”²⁵

3 43. Numerous courts have found that similarly situated habeas petitioners have
4 a cognizable, imminent fear of being deported to a dangerous third country pursuant to
5 the unequivocal policies set forth in the Noem and Lyons Memos. *See, e.g., Armstrong v.*
6 *Davis*, 275 F.3d 849, 861 (9th Cir. 2001) (reasoning there is a concrete fear of future harm
7 “where the harm alleged is directly traceable to a written policy”); *Esmail*, 2025 WL
8 3030589, at *5 n.8 (holding the noncitizen was “inherently at risk of removal under the
9 terms of the policy expressed in the Noem and Lyons Memos”).

10 44. Petitioners bring this action as a group petition in the interest of judicial
11 efficiency. *See Espinoza*, 2025 WL 2581185, at *9 (granting relief in a group case brought
12 by six petitioners and explaining that “it is not unprecedented for a district court to issue
13 injunctive relief to multiple immigration detainees joined into one habeas Petition” and
14 that doing so may be proper where “the allegations in [a] habeas case involve a ‘systemic
15 pattern of events’ that is common to all Petitioners”).

16 **B. Legal Background**

17 41. Government detention of noncitizens who have been ordered removed from
18 the United States is governed by 8 U.S.C. § 1231(a). Under this statute, after a citizen
19 receives a final order of removal, there is a “removal period” of ninety days. 8 U.S.C.
20 § 1231(a)(1)(A). The removal period begins on “[t]he date the order of removal becomes
21 administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). As relevant here, a removal order
22 becomes administratively final “(a) [u]pon dismissal of an appeal by the Board of
23 Immigration Appeals; (b) [u]pon waiver of appeal by the respondent; [or] (c) [u]pon
24 expiration of the time allotted for an appeal if the respondent does not file an appeal within
25 that time.” 8 C.F.R. § 1241.1(a).

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27 ²⁵ Refugees Int’l & Human Rights First, *Banished by Bargain: Third Country Deportation*
28 *Watch* (last updated Mar. 11, 2026) (tracking and collecting data about DHS’s third-
country-removal policy), <https://www.thirdcountrydeportationwatch.org/>.

1 42. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that
2 § 1231(a) allows DHS to detain noncitizens only for “a period reasonably necessary” to
3 remove them from the United States. *Id.* at 689. Any other rule “permitting indefinite
4 detention,” the Court reasoned, “would raise a serious constitutional problem” under the
5 Fifth Amendment’s Due Process Clause. *Id.* at 690. Thus, when a noncitizen’s removal
6 period has expired and “removal is no longer reasonably foreseeable, continued detention
7 is no longer authorized by statute.” *Id.* at 699.

8 43. Following the decision in *Zadvydas*, DHS issued new regulations in
9 accordance with the Supreme Court’s guidance. *See Bonitto v. Bureau of Immigr. &*
10 *Customs Enft.*, 547 F. Supp. 2d 747, 752 (S.D. Tex. 2008). Those regulations are codified
11 at 8 C.F.R. § 241.4 and require that DHS review the legality of a noncitizen’s continuing
12 detention after 90 days and again after 180 days. *See Bonitto*, 547 F. Supp. 2d at 752–53
13 (describing these procedures).

14 44. The provisions for the 90-day review are set out in 8 C.F.R. § 241.4(h),
15 which provides that the district director or the director of the Detention and Removal Field
16 Office will conduct “a review of the [noncitizen’s] records and any written information
17 submitted in English to the district director by or on behalf of the alien.” (footnote
18 omitted). In considering whether to release the noncitizen, the district director is required
19 to assess (1) “[t]he nature and number of disciplinary infractions or incident reports
20 received” while in custody; (2) any relevant criminal convictions or conduct; (3) the
21 noncitizen’s mental health; (4) evidence of rehabilitation such as “participation in work,
22 educational, and vocational programs” (5) any “[f]avorable factors, including ties to the
23 United States such as the number of close relatives residing here lawfully,” (6) prior
24 immigration history; and (7) whether the noncitizen presents “a significant flight risk or
25 may abscond to avoid removal, including history of escapes [and] failures to appear for
26 immigration or other proceedings.” *Id.* § 241.4(f).

27 45. If the district director continues detention after the 90-day removal period,
28 another review is mandated at the 180-day mark. *See* 8 C.F.R. § 241.4(i). This process

1 requires a two-member "Review Panel" to review the noncitizen's records and make a
 2 recommendation to the Director of the Headquarters Post-Order Detention Unit regarding
 3 release. If that director does not accept their recommendation or if the panel recommends
 4 against release, the Review Panel "shall personally interview the detainee." *Id.*
 5 § 241.4(i)(3)(i). Following the interview, the Review Panel "shall issue a written
 6 recommendation that the [noncitizen] be released or remain in custody." *Id.* § 241.4(i)(5).
 7 This written recommendation must be issued to the detainee. *See id.* § 241.4(d)(2).

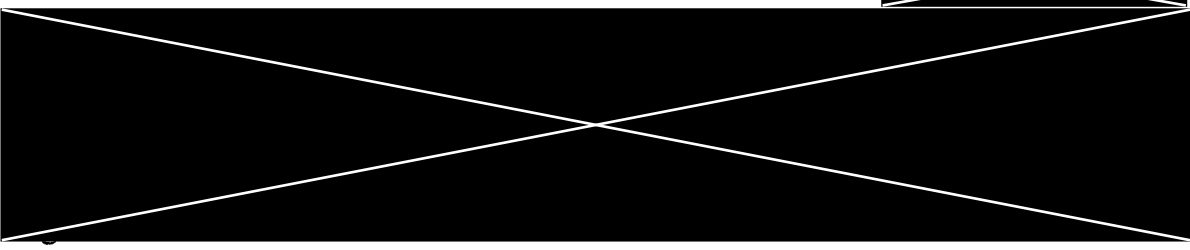
8 **C. Petitioners' Backgrounds**

9 46. As detailed below, Petitioners are currently detained at the Eloy Detention
 10 Center. All Petitioners have been granted WOR because there is a likelihood they will
 11 suffer persecution or torture in their home countries. They therefore cannot be removed to
 12 those countries unless an immigration judge so orders. By granting WOR, an immigration
 13 judge necessarily found that Petitioners have not been previously convicted "of a
 14 particularly serious crime" and present no "danger to the community of the United States."
 15 8 U.S.C. § 1231(a)(3)(B)(ii). Petitioners, as a group, all qualify for relief because, although
 16 they have been detained longer than the statutory 90-day removal period allows, their
 17 removal is not reasonably foreseeable.

18 • **Petitioner Abdul Wahab Adeli**

19 47. Mr. Abdul Wahab Adeli is a citizen of Afghanistan. He was born in 1998 in
 20 Balk-Mazar-e-Sharf Sharie, Afghanistan. (**Exhibit 1**, Decl. of Abdul Wahab Adeli ¶ 1).

21 48. Mr. Adeli is afraid to return to Afghanistan because 

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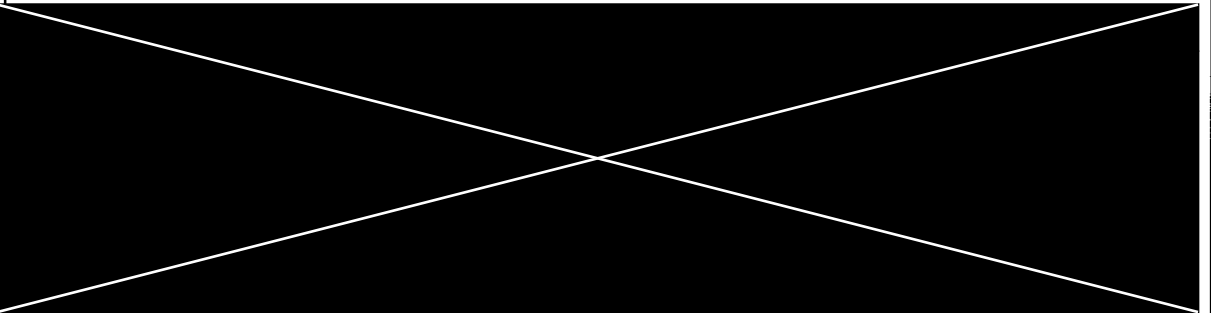
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27 ²⁶ A mullah is an honorific referring to "a religious scholar or cleric who has studied
 28 Islamic law and doctrine." *Mullah*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/mullah> (last visited Mar. 17, 2026).



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6 49. Mr. Adeli entered the United States on or about February 13, 2025. (*Id.* ¶ 2).
7 In approximately February 2025, he was placed in removal proceedings and immigration
8 detention in Eloy, Arizona. (*Id.* ¶ 3). On or about July 22, 2025, the Immigration Judge
9 (“IJ”) denied Mr. Adeli’s asylum application. (*Id.* ¶ 4). The IJ ordered Mr. Adeli removed
10 to Afghanistan but granted him WOR to Afghanistan under 8 U.S.C. § 1231(b)(3). (*Id.*
11 ¶ 5). Because no appellate proceedings were initiated and both parties waived the right to
12 appeal, the decision became final on July 22, 2025. Mr. Adeli is currently detained at the
13 Eloy Detention Center. (*Id.* ¶ 6-7).

14 50. On September 29, 2025, Mr. Adeli received a decision to continue his
15 detention on that basis that he is a flight risk (based solely on his entry into the United
16 States) and that “ICE has the necessary means to obtain a travel document to effectuate
17 [his] removal, and removal is practicable, likely to occur in the reasonably foreseeable
18 future, and in the public interest.” (**Exhibit 2**, Mr. Adeli’s 90-day review decision).

19 51. Mr. Adeli’s 180-day detention period expired on January 19, 2026.

20 52. On January 29, 2026, Mr. Adeli received another decision to continue his
21 detention. (Ex. 1 ¶ 9). ICE informed Mr. Adeli that it was seeking his removal to an
22 unnamed third country. (*Id.* ¶ 10).

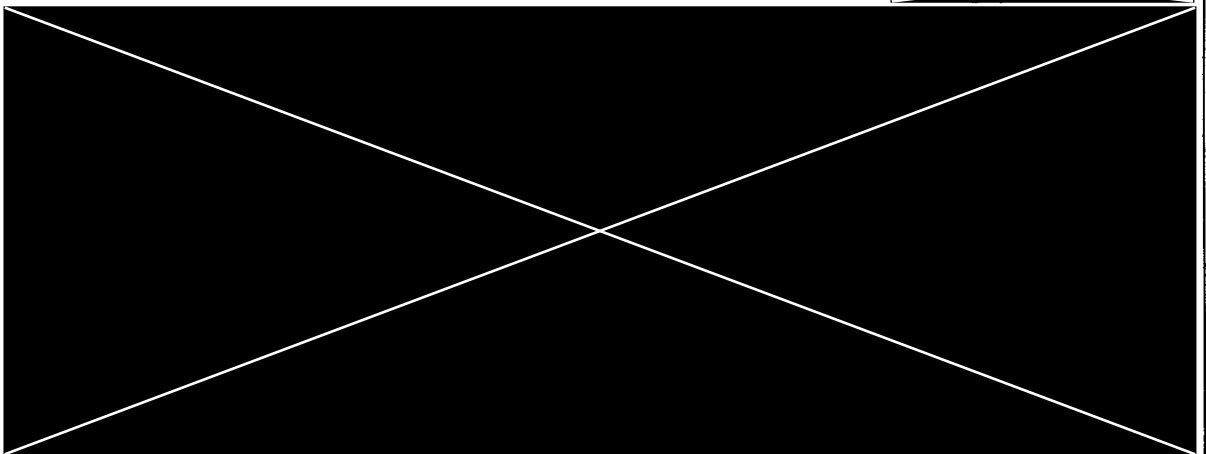
23 53. To his knowledge, ICE has requested Mr. Adeli’s travel documents. Mr.
24 Adeli provided ICE with a copy of his passport. (*Id.* ¶ 11).

25 54. Mr. Adeli remains in fear of removal to Afghanistan and fears that if he is
26 removed to any other country, that country will remove him or force him to return to
27 Afghanistan. He believes removal would violate the WOR protection previously granted
28 to him and would place him at extreme risk. (*Id.* ¶ 12).

• **Petitioner Celestin Dima**

55. Petitioner Celestin Dima is a citizen of Burkina Faso. He was born in 1994 in Gounghin, Burkina Faso. (**Exhibit 3**, Decl. of Celestin Dima ¶ 1).

56. Mr. Dima is afraid to return to Burkina Faso because



but when Mr. Dima tried to collect their wages, he was denied. Mr. Dima knows that if he is deported to Burkina Faso, he “will be detained, tortured, killed, and targeted.” (*Id.*).

57. Mr. Dima entered the United States on or about July 21, 2024. (*Id.* ¶ 2). In approximately August 2024, he was placed in removal proceedings and immigration detention in Eloy, Arizona. (*Id.* ¶ 3). On August 28, 2025, the IJ denied his asylum application due to the Circumvention of Legal Pathways rule. (*Id.* ¶ 4).²⁷ The IJ ordered Mr. Dima removed to Burkina Faso but granted him WOR to Burkina Faso under 8 U.S.C. § 1231(b)(3). (*Id.* ¶ 5). Because both parties waived their right to appeal, the decision became final on August 28, 2025. Mr. Dima is currently detained at the Eloy Detention Center.

58. On November 14, 2025, Mr. Dima received a decision to continue his detention on that basis that he is a flight risk (based solely on his entry into the United States) and that “ICE has the necessary means to obtain a travel document to effectuate

²⁷ Under this rule, an asylum applicant is ineligible for asylum if they did not apply for asylum in any third countries they passed through while traveling to the United States’ southwest border. See *Circumvention of Lawful Pathways*, 88 Fed. Reg. 31314 (May 16, 2023).

1 [his] removal, and removal is practicable, likely to occur in the reasonably foreseeable
2 future, and in the public interest.” (**Exhibit 4**, Mr. Dima’s 90-day review decision).

3 59. ICE informed Mr. Dima that it was seeking his removal to Ghana. After
4 Mr. Dima informed ICE that he was afraid to go to Ghana due [REDACTED]
5 [REDACTED], ICE conducted a credible fear interview. (Ex. 3 ¶ 10). Mr. Dima showed a
6 credible fear of removal to Ghana, so an IJ conducted a hearing into whether Mr. Dima
7 could be removed to Ghana. During those proceedings, ICE also indicated it might attempt
8 to remove Mr. Dima to Uganda or Cameroon, but he presented evidence against removal
9 to those countries—for instance, that Uganda [REDACTED] On
10 March 6, 2026, the IJ granted Mr. Dima WOR as to Ghana, in addition to Burkina Faso.
11 ICE has since indicated that it may try to remove Mr. Dima to Cote d’Ivoire. (*Id.*).

12 60. Mr. Dima’s 180-day detention period expired on February 25, 2026.

13 61. Mr. Dima remains in fear of removal to Burkina Faso and is afraid that if he
14 is removed to any other country, that country will remove him or force him to return to
15 Burkina Faso. He also fears removal to Ghana, Cameroon, Uganda, and other countries in
16 that region—all countries that [REDACTED] Mr. Dima believes removal would
17 violate the protection previously granted to him and would place him at extreme risk. (*Id.*
18 ¶ 12).

19 • **Petitioner Christelle Etsang**

20 62. Petitioner Christelle Etsang is a citizen of Cameroon. She was born in 1988
21 in Douala, Cameroon. (**Exhibit 5**, Decl. of Christelle Etsang ¶ 1).

22 63. Ms. Etsang is afraid to return to Cameroon because she believes that, if she
23 returns, she will be tortured, physically and sexually abused, arbitrarily detained, and
24 persecuted. (*Id.* ¶ 9). Specifically, she fears harm from [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

64. Ms. Etsang entered the United States on or about December 20, 2024, after which she was placed in removal proceedings in Eloy, Arizona. (*Id.* ¶¶ 2–3). On or about September 17, 2025, the IJ denied her asylum application due to the Circumvention of Legal Pathways rule. (*Id.* ¶ 4). The IJ ordered Ms. Etsang removed to Cameroon but granted her WOR under 8 U.S.C. § 1231(b)(3). (*Id.* ¶ 5). Because no appellate proceedings were initiated and neither party reserved a right to appeal, the decision became final on September 17, 2025. (*Id.* ¶ 8). Ms. Etsang is currently detained at the Eloy Detention Center in Eloy, Arizona.

65. On December 4, 2025, Ms. Etsang received a decision to continue her detention on that basis that she is a flight risk (based solely on her entry into the United States) and that “ICE has the necessary means to obtain a travel document to effectuate [her] removal, and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest.” (**Exhibit 6**, Ms. Etsang’s 90-day review decision).

66. Ms. Etsang’s 180-day period expired on March 17, 2026. (Ex. 5 ¶ 10).

67. Ms. Etsang has received notice of a custody review scheduled for April 9, 2026. (*Id.*).

68. ICE has not informed Ms. Etsang of any third-country removal efforts. (*Id.* ¶ 11). Prior to reaching the United States, Ms. Etsang’s passport was stolen in Mexico. ICE has not told her it has made any efforts to obtain her travel documents. (*Id.* ¶ 12).

69. Ms. Etsang remains in fear of removal to Cameroon and is afraid that if she is removed to any other country, that country will remove her or force her to return to Cameroon. She believes removal would violate the WOR protection previously granted to her and place her at extreme risk. (*Id.* ¶ 13).

• **Petitioner Midia Ghadami**

70. Petitioner Midia Ghadami is a citizen of Iran. She was born in 1990 in Kurdistan, Iran. (**Exhibit 7**, Decl. of Midia Ghadami ¶ 1).

71. Ms. Ghadami is afraid to return to Iran because she is 



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6 If returned to Iran, Ms. Ghadami knows
7 she “will be detained, tortured, killed or targeted because the Iranian government views
8 [her] as an enemy traitor.” (*Id.*).

9 72. Ms. Ghadami entered the United States on or about February 23, 2025, at
10 which point she was placed in detention. (*Id.* ¶ 2). In approximately April 2025, she was
11 placed in removal proceedings before the Immigration Court in Eloy, Arizona. (*Id.* ¶ 3).
12 On September 30, 2025, the IJ denied her asylum application due to the Circumvention of
13 Lawful Pathways rule. (*Id.* ¶ 4). The IJ ordered Petitioner Ghadami removed to Iran but
14 granted her WOR to Iran. Australia was designated as an alternative country of removal
15 because Ms. Ghadami’s sister is a citizen of Australia as a political refugee. (*Id.* ¶ 5).
16 Because no appellate proceedings were initiated and both parties waived the right to
17 appeal, the decision became final on September 30, 2025. (*Id.* ¶ 7).

18 73. On December 18, 2025, Ms. Ghadami received a decision to continue her
19 detention on that basis that she is a flight risk (based solely on her entry into the United
20 States) and that “ICE has the necessary means to obtain a travel document to effectuate
21 [her] removal, and removal is practicable, likely to occur in the reasonably foreseeable
22 future, and in the public interest.” (**Exhibit 8**, Ms. Ghadami’s 90-day review decision).

23 74. ICE has attempted to remove Ms. Ghadami to Australia, but Australia did
24 not accept her. Ms. Ghadami believes that ICE still intends to deport her to an unknown
25 third country. (Ex. 7 ¶ 10).

26 75. Ms. Ghadami will have been detained for 180 days on March 31, 2026.

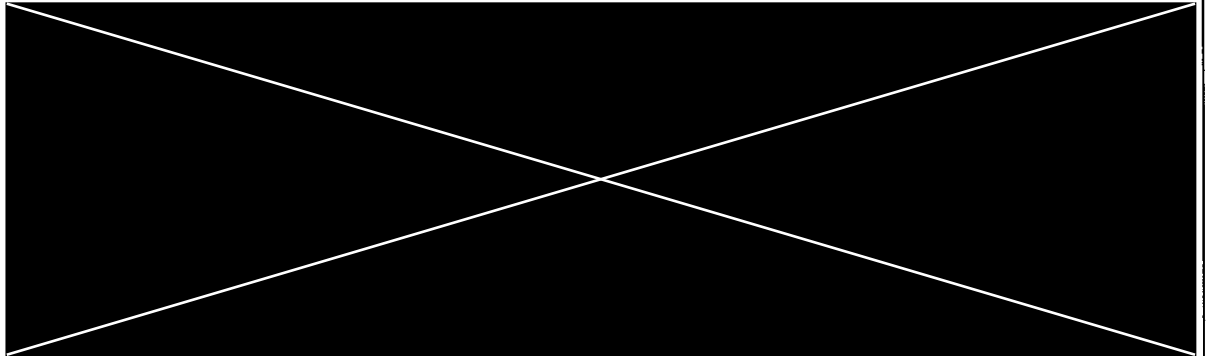
27 76. Ms. Ghadami fears being removed to Iran and is afraid that if she is removed
28 to any other country, that country will remove her or force her to return to Iran. She

1 believes removal would violate the WOR previously granted to her and would place her
2 at extreme risk. (*Id.* ¶ 12).

3 • **Petitioner Zahra Madadi**

4 77. Petitioner Zahra Madadi is a citizen of Iran. She was born in 1996 in Shiraz,
5 Iran. (**Exhibit 9**, Decl. of Zahra Madadi ¶ 1).

6 78. Ms. Madadi is afraid to return to Iran because her and her husband 



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13 79. Ms. Madadi entered the United States on or about February 23, 2025, at
14 which point she was placed in detention. (*Id.* ¶ 2). In approximately March 2025, she was
15 placed in removal proceedings before the Immigration Court in Eloy, Arizona. (*Id.* ¶ 3).
16 On September 30, 2025, the IJ denied Ms. Madadi's asylum application due to the
17 Circumvention of Lawful Pathways rule. (*Id.* ¶ 4). The IJ ordered Ms. Madadi removed to
18 Iran but granted her WOR to Iran under CAT. (*Id.* ¶ 5). Because neither party filed an
19 appeal, the decision became final thirty days later on October 30, 2025. (*Id.* ¶¶ 6–7).

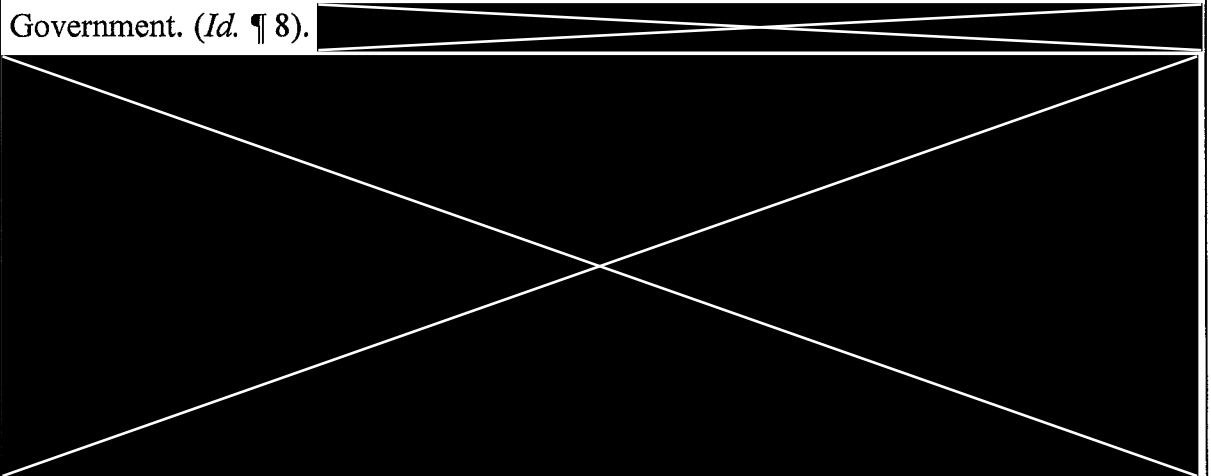
20 80. On February 26, 2026, Ms. Madadi received a decision to continue her
21 detention on the basis that she is a flight risk (based solely on her entry into the United
22 States) and that "ICE has the necessary means to obtain a travel document to effectuate
23 [her] removal, and removal is practicable, likely to occur in the reasonably foreseeable
24 future, and in the public interest." (**Exhibit 10**, Ms. Madadi's 90-day review decision).
25 ICE has not informed Ms. Madadi of any third-country removal efforts. (Ex. 9 ¶ 10). To
26 her knowledge, ICE has a copy of her passport. (*Id.* ¶ 11).

27 81. Ms. Madadi will have been detained for 180 days on April 29, 2026.
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1 82. Ms. Madadi fears being removed to Iran and is afraid that if she is removed
2 to any other country, that country will remove her or force her to return to Iran. She
3 believes removal would violate the WOR previously granted to her and would place her
4 at extreme risk. (*Id.* ¶ 12).

5 • **Petitioner Mohadese Norouzi**

6 83. Petitioner Mohadese Norouzi is a citizen of Iran. She was born in 1999 in
7 Tehran, Iran. (**Exhibit 11**, Decl. of Mohadese Norouzi ¶ 1).

8 84. Ms. Norouzi is afraid to return to Iran because she fears the Iranian
9 Government. (*Id.* ¶ 8). 

17 85. Ms. Norouzi entered the United States on or about January 8, 2025. (*Id.* ¶ 2).
18 In approximately February 2025, she was placed in removal proceedings and immigration
19 detention in Eloy, Arizona. (*Id.* ¶ 3). On or about October 7, 2025, the IJ denied her asylum
20 application due to the Circumvention of Lawful Pathways rule. (*Id.* ¶ 4). The IJ ordered
21 Ms. Norouzi removed to Iran but granted her WOR to Iran under 8 U.S.C. § 1231(b)(3).
22 (*Id.* ¶ 5). Ms. Norouzi reserved her right to appeal, but because she did not file an appeal,
23 her decision became final thirty days later on November 7, 2025. (*Id.* ¶¶ 6–7).²⁸

24 86. On February 5, 2026, Ms. Norouzi received a decision to continue her
25 detention on the basis that she is a flight risk (based solely on her entry into the United
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27 ²⁸ Although Ms. Norouzi filed a motion to reconsider the IJ's order, which the IJ denied
28 on November 13, 2025, the filing of a motion to reconsider does not toll the finality of the
removal order. *See Stone v. I.N.S.*, 514 U.S. 386, 395 (1995)

1 States) and that “ICE has the necessary means to obtain a travel document to effectuate
2 [her] removal, and removal is practicable, likely to occur in the reasonably foreseeable
3 future, and in the public interest.” (**Exhibit 12**, Ms. Norouzi’s 90-day review decision).

4 87. ICE has a copy of Ms. Norouzi’s passport. Ms. Norouzi believes that ICE
5 intends to remove her to an unknown third country. (Ex. 11 ¶¶ 10–11).

6 88. Ms. Norouzi will have been detained for 180 days on May 7, 2026.

7 89. Ms. Norouzi fears being removed to Iran and is afraid that if she is removed
8 to any other country, that country will remove her or force her to return to Iran. (*Id.* ¶ 12).
9 She believes removal would violate the WOR previously granted to her and would place
10 her at extreme risk. (*Id.* ¶ 13).

11 • **Petitioner Divine Asoba Njukeng**

12 90. Petitioner Divine Asoba Njukeng is a citizen of Cameroon. He was born in
13 1997 in Mmockmbie, Cameroon. (**Exhibit 13**, Decl. of Divine Asoba Njukeng ¶ 1).

14 91. Mr. Njukeng fears for his life if he is removed to Cameroon. (*Id.* ¶ 8). He
15 has previously been tortured by [REDACTED]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 92. Mr. Njukeng entered the United States on February 6, 2025. (*Id.* ¶ 2). He
21 was placed in removal proceedings in approximately March 2025. (*Id.* ¶ 3). On November
22 21, 2025, an IJ denied Mr. Njukeng’s asylum application due to the Circumvention of
23 Legal Pathways rule. (*Id.* ¶ 4). But the IJ granted Mr. Njukeng WOR to Cameroon under
24 8 U.S.C. § 1231(b)(3). (*Id.* ¶ 5). Because Mr. Njukeng reserved the right to appeal, but
25 ultimately did not file an appeal, the decision became final on November 22, 2025. (*Id.*
26 ¶ 9). Mr. Njukeng is currently detained at the Eloy Detention Center.

27 93. ICE has sent Mr. Njukeng a notice that his 90-day review is scheduled for
28 March 22, 2026. (*Id.* ¶ 9). ICE has not told Mr. Njukeng that it is attempting to remove

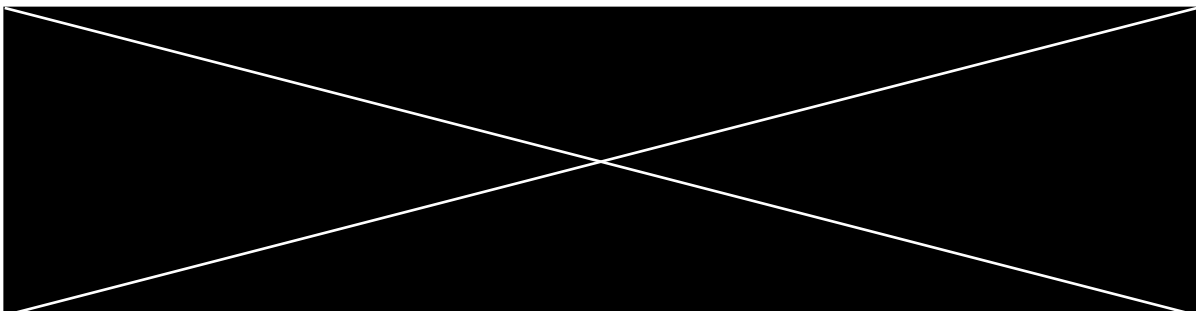
1 him to a third country, and he also believes that ICE does not have his passport or travel
2 documents. (*Id.* ¶¶ 10–11).

3 94. Mr. Njukeng fears removal to Cameroon, and is afraid that if he is removed
4 to any other country, that country will remove him or force him to return to Cameroon.
5 Mr. Njukeng believes removal would violate the WOR previously granted to him and
6 would place him at extreme risk. (*Id.* ¶ 12).

7 • **Petitioner Karimullah Rahmatullah**

8 95. Petitioner Karimullah Rahmatullah is a citizen of Afghanistan. He was born
9 in 1995 in Kabul, Afghanistan. (**Exhibit 14**, Decl. of Karimullah Rahmatullah ¶ 1)

10 96. Mr. Rahmatullah is afraid to return to Afghanistan because 

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16 down its enemies. If he returns to Afghanistan, Mr. Rahmatullah “will be detained,
17 tortured, and killed.” (*Id.*)

18 97. Mr. Rahmatullah entered the United States on or about February 11, 2025,
19 after which he was placed in detention. (*Id.* ¶ 2). In approximately August 2025, he was
20 placed in removal proceedings and immigration detention in Eloy, Arizona. (*Id.* ¶ 3). On
21 or about November 21, 2025, the IJ ordered Mr. Rahmatullah removed to Afghanistan but
22 granted him WOR under the CAT. (*Id.* ¶ 4). Because Mr. Rahmatullah reserved the right
23 to appeal, the decision became final on December 25, 2025. (*Id.* ¶¶ 6–7). Mr. Rahmatullah
24 is currently detained at the Eloy Detention Center.

25 98. Mr. Rahmatullah received notice on March 1, 2026, that his custody status
26 will be reviewed on or about March 24, 2026. ICE informed Mr. Rahmatullah that it was
27 seeking removal of him to an unnamed third country. (*Id.* ¶¶ 9–10).

28 99. To Mr. Rahmatullah’s knowledge, ICE has a copy of his passport. (*Id.* ¶ 11).

1 100. Mr. Rahmatullah remains in fear of removal to Afghanistan and is afraid that
2 if he is removed to any other country, that country will remove him or force him to return
3 to Afghanistan. He believes removal would violate the WOR previously granted to him
4 and would place him at extreme risk. (*Id.* ¶ 12).

5 • **Petitioner Segundo Benavente Lincura**

6 101. Petitioner Segundo Benavente Lincura is a citizen of Chile. He was born in
7 1979 in Coronel, Chile. (**Exhibit 15**, Decl. of Segundo Benavente Lincura ¶ 1).

8 102. Mr. Lincura is afraid to return to Chile because, if he returns, he will again
9 be tortured and physically abused by [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 103. Mr. Lincura entered the United States on or about September 9, 2024. (*Id.*
13 ¶ 2). In approximately December 2024, he was placed in removal proceedings in Eloy,
14 Arizona. (*Id.* ¶ 3). In June 2025 an immigration judge ordered Mr. Lincura removed to
15 Chile but granted WOR under the CAT. (*Id.* ¶ 5). The decision became final on July 7,
16 2025. (*Id.* ¶ 7). Mr. Lincura is currently detained at the Eloy Detention Center.

17 104. Mr. Lincura received a 90-day custody review in approximately December
18 2025, but does not believe he has received a 180-day custody review. (*Id.* ¶ 9).

19 105. ICE has told Mr. Lincura that it intends to remove him to a third country,
20 without providing a timeline for his removal or indicating where it may attempt to send
21 him. (*Id.* ¶ 10). Mr. Lincura believes ICE has his passport. (*Id.* ¶ 11).

22 106. Mr. Lincura fears being removed to Chile and fears that if he is removed to
23 any other country, that country will remove him or force him to return to Chile. He believes
24 removal would violate the WOR protection previously granted to him and place him at
25 extreme risk. (*Id.* ¶ 12).

26 • **Table of Material Dates**

27 107. In sum, all Petitioners are currently detained at the Eloy Detention Center,
28 even though they were all granted WOR and cannot be removed to their home countries.

By granting Petitioners WOR, an immigration judge necessarily found that Petitioners have not been previously convicted “of a particularly serious crime” and present no “danger to the community of the United States.” 8 U.S.C. § 1231(a)(3)(B)(ii). Petitioners, as a group, all qualify for relief because, although they have been detained longer than the statutory 90-day removal period allows, their removal is not reasonably foreseeable. For ease of reference, below is a table with information about each Petitioner’s country of origin, the date each Petitioner’s removal order became administratively final, the date each Petitioner was detained for 90 days, and the date each Petitioner was detained for 180 days.

Petitioner	Country of Origin:	Admin. Final:	90 days:	180 days:
Abdul Wahab Adeli	Afghanistan	7-22-2025	10-20-2025	1-18-2026
Celestin Dima	Burkina Faso	8-28-2025	11-26-2025	2-24-2026
Christelle Etsang	Cameroon	9-17-2025	12-16-2025	3-16-2026
Midia Ghadami	Iran	9-30-2025	12-29-2025	3-29-2026
Zahra Madadi	Iran	10-30-2025	1-28-2026	4-29-2026
Mohadese Norouzi	Iran	11-7-2025	2-5-2026	5-6-2026
Divine Asoba Njukeng	Cameroon	12-24-2025	3-24-2026	6-22-26
Karimullah Rahmatullah	Iran	12-25-2025	3-25-2026	6-23-2026
Segundo Benavente Lincura	Chile	7-7-2025	10-5-2025	1-3-2026

V. ARGUMENT

D. Petitioners have been detained past the initial mandatory removal period and their removal is not reasonably foreseeable.

108. 8 U.S.C. § 1231(a) permits ICE to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. § 1231(a)(1)(A).

109. The statute provides that “the removal period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court’s final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.” 8 U.S.C. § 1231(a)(1)(B).

1 110. After the expiration of the 90-day removal period, § 1231(a)(3) provides
2 that ICE may release noncitizens on an order of supervision. Alternatively, a noncitizen
3 “may be detained beyond the removal period” if they meet certain criteria that are
4 inapplicable in the present case, such as being inadmissible or deportable under specified
5 statutory categories. *Id.* § 1231(a)(6).

6 111. Constitutional limits on detention beyond the removal period are well
7 established. Government detention violates due process unless the detention is reasonably
8 related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. “[W]here
9 detention’s goal is no longer practically attainable, detention no longer ‘bear[s] [a]
10 reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690
11 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

12 112. The purpose of detention during and beyond the removal period is to
13 “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme
14 Court “read § 1231 to authorize continued detention of an alien following the 90-day
15 removal period for only such time as is reasonably necessary to secure the alien’s
16 removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

17 113. As the Supreme Court explained, where there is no possibility of removal,
18 immigration detention presents due process concerns because the need to detain the
19 noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak
20 or nonexistent.” *Zadvydas*, 533 U.S. at 690–92. Detention is lawful only when “necessary
21 to bring about that alien’s removal.” *See id.* at 689.

22 114. To balance these competing interests, the *Zadvydas* Court established a
23 rebuttable presumption regarding what constitutes a “reasonable period of detention” for
24 noncitizens after a removal order. *Id.* at 700–01. The Court determined that six months’
25 detention could be deemed a “presumptively reasonable period of detention,” after which
26 the burden shifts to the government to justify continued detention if the noncitizen
27 provides a “good reason to believe that there is no significant likelihood of removal in the
28

1 reasonably foreseeable future.” *Id.* at 701.

2 115. But even detention within the six-month “presumptively reasonable” period
3 can be unreasonable and thus unlawful. *See Cruz Medina v. Noem*, 794 F. Supp. 3d 365,
4 375 (D. Md. 2025). The *Cruz* court stated that “if a petitioner ‘claim[s] and prove[s] ...
5 that his removal is not reasonably foreseeable’—including during the six-month period—
6 the petitioner ‘can overcome that presumption’ and detention is no longer authorized.” *Id.*
7 (quoting *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 397 (D.N.J. 2025)). “‘To hold
8 otherwise’—in other words, to suggest that courts only begin to inquire into whether
9 detention is reasonably foreseeable after the expiration of the six-month period—‘would
10 condone detention in cases where removal is not reasonably foreseeable or even
11 functionally impossible, so long as it did not exceed six months.’” *Id.* (citing first *Cesar*
12 *v. Achim*, 542 F. Supp. 2d 897, 904 (E.D. Wis. 2008); and then Ian Bratlie & Adriana
13 Lafaille, *A 180-Day Free Pass? Zadydas and Post-Order Detention Challenges Brought*
14 *Before the Six-Month Mark*, 30 Geo. Immigr. L.J. 213, 239 (2016)).

15 116. On these facts, Petitioners have shown that their removal is not significantly
16 likely to occur in the reasonable future because removal to their home countries is
17 impossible. *See, e.g., Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158,
18 at *2 (S.D. Miss. July 7, 2020) (“[T]o shift the burden to the Government, an alien must
19 demonstrate . . . barriers to his repatriation to his country of origin.” (internal quotations
20 and citations omitted)); *Ali v. Dep’t of Homeland Sec.*, 451 F. Supp. 3d 703, 707–08 (S.D.
21 Tex. 2020) (holding the Pakistani petitioner met burden by showing he could not be
22 removed to Pakistan); *Joseph v. Mukasey*, No. 4:08-CV-389-RH/WCS, 2009 WL 331558,
23 at *4 (N.D. Fla. Feb. 10, 2009) (holding a dual citizen of Bahamas and Haiti had met
24 burden by showing Bahamas would not give him travel documents).

25 117. Judges in this district faced with factually similar cases have found that DHS
26 failed to show a significant likelihood of removal in the reasonably foreseeable future and,
27 as a consequence, ordered the petitioners released. *See, e.g., Olarte v. Rivas*, No. CV-25-
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1 01662-PHX-DLR (ESW), slip. op. at *4 (D. Ariz. Oct. 30, 2025). In *Olarte*, ICE attempted
2 to remove the petitioner, a Colombian national, to Peru, Argentina, and Chile, but all three
3 countries refused to accept him. *Id.* ICE further indicated that, more recently, a removal
4 request was made to Mexico and was ignored. *Id.* The Court held that “there is no evidence
5 in the record that [the petitioner’s] removal is likely to occur at all, much less in the
6 reasonably foreseeable” and that ICE “merely made a telephonic request to an unnamed
7 official of the Mexican government and [] received no response to that request.” *Id.*

8 118. Moreover, the Court routinely orders release when the Government
9 responds to an order to show cause stating “[u]ndersigned counsel is unable to ascertain
10 sufficient facts at this time to establish that there is a ‘significant likelihood of removal in
11 the reasonably foreseeable future.’ Accordingly, Respondents do not oppose Petitioner’s
12 request for release at this time.” *See, e.g., Nisha v. Figueroa et al.*, No. CV-26-01259-
13 PHX-KML(ASB), slip. op. at *1 (D. Ariz. Mar. 4, 2026). The Government, through its
14 own admissions, frequently concedes that it does not have reason to believe that removal
15 is significantly likely in the reasonably foreseeable future under *Zadvydas*. In short, there
16 is good reason to believe, based on DHS’s current actions (or inactions) in legally
17 indistinguishable cases that there is not a third country presently willing to accept any
18 Petitioner.

19 119. Nevertheless, Petitioners all have a credible fear of removal to any third
20 country that has an extradition treaty with their home country or has demonstrated a
21 history of repatriating refugees to their home countries. As one district court recently
22 noted, the United States has been violating the principle of nonrefoulement by deporting
23 refugees to third countries that are not bound by U.S. immigration law and which then
24 immediately return the refugees to their homelands, where they face persecution. *See*
25 *Abrego Garcia v. Noem*, No. 8:25-CV-00951-PX, 2025 WL 2062203, at *9 n.15 (D. Md.
26 July 23, 2025) (noting first the recent removal of a Guatemalan refugee to Mexico, which
27 immediately sent the refugee to Guatemala, and then discussing a group of Venezuelans
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1 with pending asylum claims who were sent to El Salvador, which then sent them to
2 Venezuela in a prisoner swap). As discussed above, *infra* ¶¶ 36–42, Senators, immigration
3 experts, federal judges, and countless news outlets have recognized that DHS’s recent,
4 aggressive expansion of third-country removals is nothing more than an attempt to “evade
5 the government’s legal obligations [under U.S. immigration law] by doing indirectly what
6 it cannot do directly.” *D.A.*, 800 F. Supp. 3d at 46–47 (collecting such cases). Because
7 many third countries to which Respondents might send Petitioners are likely to return
8 them to their home country in violation of the United States’ commitment to
9 nonrefoulement, Petitioners have a credible fear of such removal and are entitled to a
10 credible fear hearing before USCIS before being removed to a third country. *See D.V.D.*,
11 2026 WL 521557, at *3, n.10.

12 120. Respondents have been legally entitled to remove Petitioners to a safe third
13 country yet have not done so nor made significant efforts to do so. Quite simply, because
14 Petitioners have all received WOR and cannot be lawfully removed to their respective
15 countries of origin, there is not a “*significant* likelihood” of their removal “in the
16 *reasonably* foreseeable future.” *Zadvydas*, 533 U.S. at 701 (emphasis added).

17 **E. ICE cannot show there is a significant likelihood that it will remove any**
18 **Petitioner in the near future.**

19 121. Under *Zadvydas*, some deference is owed to DHS’s assessment of the
20 likelihood of removal and the time it will take to execute removal. 533 U.S. at 700. But
21 just as pro forma findings of dangerousness do not suffice to justify indefinite detention,
22 pro forma statements that removal is likely should not satisfy the government’s burden.
23 *Id.* at 690–91 (noting the Supreme Court has “upheld preventive detention based on
24 dangerousness only when limited to specially dangerous individuals and subject to strong
25 procedural protections”). The government must rebut a detainee’s showing that there is no
26 significant likelihood of removal in the reasonably foreseeable future with some “evidence
27 of progress . . . in negotiating a petitioner’s repatriation.” *Gebrelibanos v. Wolf*, No. 20-
28 CV-1575-WQH-RBB, 2020 WL 5909487 at *3 (S.D. Cal. Oct. 6, 2020) (internal citation

1 omitted); *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984 at *4 (W.D.N.Y.
2 Jan. 2, 2019) (“[A]s time passes, the mere existence of possible avenues for removal
3 becomes insufficient to justify further detention; some evidence of progress is required”
4 (collecting cases)).

5 122. The longer a noncitizen is detained, the more evidence ICE needs to put
6 forward to justify continued detention. *See Hassoun*, 2019 WL 78984 at *4. Specifically,
7 “for detention to remain reasonable [after six months of detention have passed], as the
8 period of prior postremoval confinement grows, what counts as the ‘reasonably
9 foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701; *see also*
10 *Alexander v. Att’y Gen.* 495 F. App’x 274, 277 (3d Cir. 2012) (“[T]he longer an alien is
11 detained, the less he must put forward to obtain relief”).

12 123. Even if ICE is engaged in ongoing efforts to secure removal, such efforts
13 alone do not mitigate already-prolonged detention, nor do they render removal reasonably
14 foreseeable. *See Shefqet v. Ashcroft*, No. 02-C-7737, 2003 WL 1964290, at *5 (N.D. Ill.
15 April 28, 2003) (“Even if [ICE] has been making regular efforts to secure Petitioner’s
16 travel document . . . at this time there must be some concrete evidence of progress. [ICE]
17 cannot rely on good faith efforts alone.”). The likelihood of removal “does not turn on the
18 degree of the government’s good faith efforts,” but rather “on whether and to what extent
19 the government’s efforts are likely to bear fruit.” *Hassoun*, 2019 WL 78984, at *5. Indeed,
20 the Supreme Court specifically rejected the notion that removal is reasonably foreseeable
21 as long as “good faith efforts” continue, holding that such a standard “would seem to
22 require an alien seeking release to show the absence of any prospect of removal—no
23 matter how unlikely or unforeseeable—which demands more than our reading of the
24 statute can bear.” *Zadvydas*, 533 U.S. at 702. If ICE “has no idea of when it might
25 reasonably expect [Petitioners] to be repatriated,” the Court cannot find that their “removal
26 is likely to occur—or even that it might occur—in the reasonably foreseeable future.”
27 *Palma*, 2020 WL 4880158, at *3 (citing *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102
28

1 (W.D.N.Y. 2019)).

2 124. In practice, relatively few noncitizens granted WOR are removable to
3 alternative countries. As the Supreme Court has acknowledged, “DHS often does not
4 remove an alien to an alternative country if withholding relief is granted” and “only 1.6%
5 of aliens who were granted withholding of removal were actually removed to an
6 alternative country.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 537 (2021); *See*
7 *Sagastizado v. Noem*, 802 F. Supp. 3d 992, 1009–10 (S.D. Tex. 2025) (noting “that third
8 country removals were relatively rare prior to the implementation of new policy objectives
9 by the Executive Branch”). Given the improbability of ICE removing any Petitioners to
10 third countries without violating their rights to due process, this Court should order
11 Petitioners immediate release subject to conditions the Court deems appropriate. *See, e.g.,*
12 *Manson v. Barr*, No. 3:20-cv-133-J-34, 342020 WL 3962235, at *3 (M.D. Fla. July 13,
13 2020) (ordering immediate release on conditions of supervision pursuant to § 1231(a)(3)).

14 **F. ICE has failed to comply with its own regulations.**

15 125. ICE’s regulations provide that by the end of the 90-day removal period, the
16 local ICE field office with jurisdiction over a noncitizen’s detention must conduct a
17 custody review to determine whether the noncitizen should remain detained. *See* 8 C.F.R.
18 § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released following the 90-day
19 custody review, jurisdiction transfers to ICE Headquarters (“ICE HQ”), § 241.4(c)(2),
20 which must conduct a custody review before or at 180 days. § 241.4(k)(2)(ii). In making
21 these custody determinations, ICE considers several factors, including whether the
22 noncitizen is likely to pose a danger to the community or will be a flight risk if released.
23 § 241.4(e)–(f).

24 126. Here, ICE’s 90-day reviews are merely pretextual and prolong each
25 Petitioner’s detention without cause, citing boilerplate justifications rather than
26 considering the regulatory factors at § 241.4(f). In fact, each “written” 90-day decision
27 ICE gave to each Petitioner is identical and cites nearly identical justifications. By failing
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1 to review Petitioners' custody status as required by its own regulations and prejudicing
2 their ability to demonstrate that their release is warranted, ICE has violated Petitioners'
3 rights in violation of their fundamental liberty interests and due process rights. *See United*
4 *States v. Calderon-Medina*, 591 F.2d 529, 531 (9th Cir. 1979) ("Violation of a regulation
5 renders a deportation unlawful only if the violation prejudiced interests of the alien which
6 were protected by the regulation."); *Leslie v. Att'y Gen.*, 611 F.3d 171, 180 (3d Cir. 2010)
7 ("[W]hen an agency promulgates a regulation protecting fundamental statutory or
8 constitutional rights of parties appearing before it, the agency must comply with that
9 regulation."). Although the regulations promise noncitizens a tangible opportunity to
10 obtain freedom from detention, ICE has denied that opportunity to every Petitioner by
11 making pro forma findings. *See Zadvydas*, 533 U.S. at 690 ("Freedom from
12 imprisonment—from government custody, detention, or other forms of physical
13 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").

14 127. Noncitizens are entitled to individualized and meaningful custody review.
15 *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 493 (S.D.N.Y. 2025). Indeed, if noncitizens
16 "could simply be detained on a categorical (or arbitrary) basis without any kind of
17 individualized assessment, it would make little sense to permit such individuals an
18 opportunity to challenge their detention by an appeal before an immigration judge on the
19 basis of specific factors such as dangerousness or flight risk."

20 128. Here, ICE told all Petitioners, in a form letter, that they are a "flight risk"
21 solely because of their illegal entry. *See State v. Molchor*, 235 A.3d 235, 249 (N.J. App.
22 Div. 2020) ("[A] defendant's immigration status alone can rarely if ever justify a finding
23 that the defendant poses a risk of flight."); *see also Singh v. Holder*, 638 F.3d 1196 (9th
24 Cir. 2011) (stating that a final removal order alone does not establish that a noncitizen
25 presented a flight risk). The agency similarly assured Petitioners that their removal is
26 reasonably foreseeable, without making any meaningful individualized assessment or
27 recounting ICE's efforts to locate a safe third country for removal.

129. The court in *Bonitto* dealt with a factually similar scenario. Relevant to this case, the *Bonitto* court found that DHS's "failure to comply with the review procedures outlined in the applicable regulations violates [the petitioner's] procedural due process rights." 547 F. Supp. 2d at 755. The court pointed out that "it is a denial of procedural due process for any government agency to fail to follow its own regulations providing procedural safeguards to persons involved in adjudicative processes before it." *Id.* (citing *Gov't of Canal Zone v. Brooks*, 427 F.2d 346, 347 (5th Cir. 1970)). The *Bonitto* court noted that "[w]here individual interests are implicated, the Due Process clause requires that an executive agency adhere to the standards by which it professes its action to be judged." 547 F. Supp. 2d at 756. The review mandated by § 241.4, the court reasoned, "do[es] not merely facilitate internal agency housekeeping, but rather afford[s] important and imperative procedural safeguards to detainees." *Id.* The Constitution's guarantee of due process therefore demands that DHS must comply with its own "post-order custody regulations." *Id.* (internal citations omitted). Ultimately, there, the court granted habeas relief and ordered DHS to conduct a "meaningful post-removal custody review." *Id.*

130. For the same reasons, ICE's noncompliance with its own regulations violates Petitioners' due process rights. *See Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) ("In these circumstances, it is most appropriate that the court exercise its equitable authority to remedy the violations of petitioners' constitutional rights to due process by promptly deciding itself whether each should be released.").

VI. CLAIMS FOR RELIEF

Count I

Indefinite Civil Detention in violation of the Fifth Amendment's Due Process

Clause

131. Petitioners incorporate by reference all preceding allegations.

132. The Due Process Clause forbids Respondents from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

1 133. In the civil context, the Due Process Clause allows Respondents to detain
2 noncitizens only “in certain special and narrow nonpunitive circumstances . . . where a
3 special justification . . . outweighs the individual’s constitutionally protected interest in
4 avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690. Such special justification exists
5 only if the restraint on liberty bears a “reasonable relation” to permissible purposes.
6 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *see also Foucha v. Louisiana*, 504 U.S. 71,
7 79 (1992). In the immigration context, the permissible purposes of detention are “ensuring
8 the appearance of aliens at future immigration proceedings and preventing danger to the
9 community.” *Zadvydas*, 533 U.S. at 690 (quotations omitted).

10 134. These substantive limitations on detention are closely intertwined with
11 procedural due process protections. *Foucha*, 504 U.S. at 78–80. Noncitizens have a right
12 to adequate procedures to determine whether their detention in fact serves the purposes of
13 ensuring their appearance or protecting the community. *Id.* at 79; *Zadvydas*, 533 U.S.
14 at 692; *Casas-Castrillon v. Dep’t of Homeland Sec.*, 535 F.3d 942, 949 (9th Cir. 2008).
15 Absent procedures that safeguard this constitutional cornerstone, a habeas court must
16 assess whether the noncitizen’s immigration detention is reasonably related to the
17 purposes of ensuring his appearance or protecting the community. *Zadvydas*, 533 U.S. at
18 699. If Respondents cannot demonstrate as much, the noncitizen must be released. *Id.*

19 135. Under this framework, Petitioners must be released because their continued
20 detention abridges their due process rights.

21 136. No Petitioner poses any danger to the community—as evidenced by the
22 grants of WOR—nor is there any evidence that any Petitioner poses a flight risk.

23 137. Petitioners are being indefinitely detained because they cannot be removed
24 to their home countries. DHS does not have a plan to remove Petitioners to a *safe* third
25 country; rather, it has repeatedly removed similarly situated noncitizens to third countries
26 that, in turn, impermissibly deport such persons to their unsafe home countries. Moreover,
27 in addition to perpetuating unlawful refolement, DHS has a practice of sending
28 noncitizens to countries with poor human rights records that are hotbeds for human rights

1 violations where many petitioners would have separate WOR claims, independent of
2 refolement. In short, DHS is detaining Petitioners without an actual plan to end their
3 detention by removing them to a safe third country. This continued detention without any
4 reasonably foreseeable endpoint is thus unconstitutional. *Zadvydas*, 533 U.S. at 701.

5 Count II

6 **Violation of 8 U.S.C. § 1231(a) under *Zadvydas***

7 138. Petitioners incorporate by reference all preceding allegations.

8 139. Petitioners' prolonged and indefinite detention violates 8 U.S.C. § 1231(a),
9 as interpreted by *Zadvydas*. Although the statutory removal has passed, there is no
10 evidence indicating that any Petitioner is likely to be removed in the foreseeable future.

11 140. Petitioners attest that Respondents cannot remove them in the foreseeable
12 future because Petitioners have all received withholding of removal. Respondents have a
13 nondiscretionary duty to remove Petitioners *only* to their designated country of removal
14 or to a safe third country. To be precise, DHS "shall" remove a noncitizen only "to the
15 country the [noncitizen] so designates." 8 U.S.C. § 1231(b)(2)(A)(ii). And when a
16 noncitizen does not designate the country of removal, DHS "*shall* remove the alien to a
17 country of which the alien is a subject, national, or citizen. *See id.* § 1231(b)(2)(D)
18 (emphasis added); *see also generally Jama v. Immigr. & Customs Enf't.*, 543 U.S. 335,
19 341 (2005).

20 141. Only when it is "impracticable, inadvisable, or impossible" to remove
21 noncitizens to their country of origin can ICE remove a noncitizen to a third country. 8
22 U.S.C. § 1231(b)(1)(C)(iv). Due process is required for every third country removal.
23 *D.V.D.*, 2026 WL 521557 at *24–26.

24 142. Respondents' failure to remove Petitioners—some of whom have been
25 detained for more than 180 days—shows that they either cannot or will not remove them
26 in the reasonably foreseeable future. This conclusion is compelled by the fact that
27 Petitioners were all granted WOR and thus cannot be removed to their respective home
28 countries.

143. Under *Zadvydas*, Petitioners' continued detention is unreasonable and not authorized by 8 U.S.C. § 1231(a).

Count III

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) and (D)

144. Petitioners incorporate by reference all preceding allegations.

145. A "reviewing court shall (1) compel agency action unlawfully withheld or unreasonably delayed; and (2) hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706.

146. ICE's actions and omissions, including (1) its failure to provide some Petitioners with the written decision regarding their 180-day custody review and/or (2) its decision to continue Petitioners' detention after 90 days citing only pretextual, boilerplate reasons, constitute unlawful agency action that should be corrected by this Court.

147. Respondents' continued detention of Petitioners violates their due process rights by denying them an individualized and meaningful custody review, to which they are entitled under 8 C.F.R. § 241.4.

Count IV

Inadequate Procedures for Third Country Removal in violation of Procedural Due Process under the Due Process Clause.

148. Petitioners incorporate by reference all preceding allegations.

149. The Due Process Clause of the Fifth Amendment requires sufficient notice and an opportunity to be heard prior to the deprivation of any protected rights. U.S. Const. amend. V; *see also La. Pac. Corp. v. Beazer Materials & Servs.*, 842 F. Supp. 1243, 1252 (E.D. Cal. 1994) ("[D]ue process requires that government action falling within the clause's mandate may only be taken where there is notice and an opportunity for hearing.").

150. Petitioners have a protected interest in staying alive. As a result, before they are removed to any third country, Petitioners must receive notice and an opportunity to be

1 heard regarding whether they have a credible fear of persecution in that country. DHS is
2 required to provide such notice and an opportunity to be heard pursuant to 8 U.S.C.
3 1231(b)(3)(A), the Due Process Clause, and the binding international treaty: The
4 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
5 Punishment. *See* 8 C.F.R. 208.18.

6 151. On February 25, 2026, the U.S. District Court for the District of
7 Massachusetts declared DHS's third-country removal policy, as embodied in the Noem
8 Memo and the Lyons Memo, unlawful under the Due Process Clause of the Fifth
9 Amendment. The Court found that the policy fails to provide constitutionally adequate
10 notice because 24-hour notice before removal to a third country or as few as six hours in
11 exigent circumstances is "not 'notice and opportunity to be heard appropriate to the nature
12 of the case.'" *D.V.D.*, 2026 WL 521557 at *34, n.86 (quoting *Trump v. J. G. G.*, 604 U.S.
13 670, 673 (2025)).

14 152. As described in detail above, in recent cases DHS has repeatedly failed to
15 give notice and an opportunity to be heard to similarly situated noncitizens granted WOR
16 *before* removing such noncitizens to unsafe third countries. Respondents' failure to abide
17 by the basic constitutional requirement of due process is particularly shocking in this
18 context, where removal to an unsafe third country could cause the exact harm—death or
19 torture—that allowed Petitioners to qualify for withholding of removal in the first place.

20 153. For these reasons, Respondents will violate Petitioners' due process rights
21 if they attempt to remove any Petitioner to a third country without adequate notice and an
22 opportunity to apply for WOR to that third country. Accordingly, Petitioners also ask the
23 Court to order that they not be summarily removed to any third country unless and until
24 they are given constitutionally adequate procedures.

25 VII. PRAYER FOR RELIEF

26 Petitioners respectfully request that this Court:
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1 1. Grant a temporary restraining order and a preliminary injunction prohibiting
2 Respondents from removing Petitioners to any third country without first being provided
3 constitutionally compliant procedures, including:

4 a. Written notice to any Petitioner and counsel of the third country to
5 which Petitioner may be removed, in a language Petitioner understands, at least
6 fifteen days before such removal;

7 b. A meaningful opportunity for Petitioner through counsel to argue that
8 such removal is prohibited by law, including in a reasonable fear interview before
9 a USCIS asylum officer.

10 2. Grant a temporary restraining order and a preliminary injunction prohibiting
11 Respondents from transferring any Petitioner to a different detention facility during the
12 pendency of this proceeding, to ensure that Petitioners do not lose their access to counsel.

13 3. Declare that Petitioners' continued detention violates 8 U.S.C. § 1231, as
14 interpreted by the Supreme Court in *Zadvydas*.

15 4. Alternatively, declare that Respondents prolonged, indefinite detention of
16 Petitioners violates the Due Process Clause of the Fifth Amendment.

17 5. Alternatively, declare that Respondents' failure to comply with 8 C.F.R.
18 § 241.4 by providing Petitioners a meaningful 90-day review violates the Administrative
19 Procedure Act, 5 U.S.C. § 706, and Petitioners' right to procedural due process.

20 6. Grant a writ of habeas corpus and order Respondents to release Petitioners
21 from detention on an order of supervision pursuant to 8 U.S.C. § 1231(a)(3).

22 7. Award Petitioners reasonable attorneys' fees and costs pursuant to the Equal
23 Access to Justice Act or other applicable law.

24 8. Order that all property seized at the time of detention belonging to each
25 Petitioner be returned upon release.

26 9. Grant any other relief that this Court deems just and proper.
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By s/Daniel Bowman

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioners because I am their attorney. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 20th day of March, 2026.

By s/Daniel Bowman
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