

1 **Jessie Agatstein**
2 Cal. Bar No. 319817
3 **Federal Defenders of San Diego, Inc.**
4 225 Broadway, Suite 900
5 San Diego, California 92101-5030
6 Telephone: (619) 234-8467
7 Facsimile: (619) 687-2666
8 jessie_agatstein@fd.org

9 Attorneys for Mr. Yahyapour

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

12 **FARHAD YAHYAPOUR GHAZVINI,**

Case No.: 26-cv-1785-LL-DDL

13 Petitioner,

14 v.

**Amended Petition for Writ
of Habeas Corpus**

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

**[Civil Immigration Habeas,
28 U.S.C. § 2241]**

24 Respondents.
25
26
27
28

Table of Contents

	Page
I. Introduction	1
II. Statement of Facts	2
A. Mr. Yahyapour comes to the United States as a child, is ordered removed in 2011, and is re-detained by ICE in December 2025.	2
B. It is extremely challenging for the United States to deport people to Iran even when it is not in the midst of a war.....	3
III. This Court has jurisdiction.....	4
IV. Legal Analysis.....	5
A. Claim 1: Mr. Yahyapour’s detention violates <i>Zadvydas</i> and 8 U.S.C. § 1231.....	5
1. Legal background: The statute, as interpreted by <i>Zadvydas</i> , renders detention mandatory for 90 days after removal is ordered and allowable after six months after removal is ordered only if there is a significant likelihood of removal in the reasonably foreseeable future.....	5
2. Mr. Yahyapour’s six-month grace period expired in 2014, and regardless, he has now been in custody for more than six months.....	6
3. Mr. Yahyapour’s experience provides good reason to believe that he will not likely be removed in the reasonably foreseeable future.	7
B. Claim 2: ICE failed to comply with its own regulations while re-detaining Mr. Yahyapour, violating his rights under applicable regulations and due process.....	10
V. This Court must hold an evidentiary hearing on any disputed facts.....	12
VI. Prayer for relief.	12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **I. Introduction**

2 Farhad Yahyapour Ghazvini came to the United States from Iran on a green
3 card as a child. In 2011, he was ordered removed. In the decade and a half since,
4 the United States has been unable to remove him to Iran despite its repeated
5 attempts to do so. That the United States and Iran have been unable to coordinate
6 his removal in a time of peace does not bode well in the current moment, in which
7 the two countries have more important diplomatic problems. *See Reuters,*
8 *Explainer: US-Iran ceasefire: what we know* (Apr. 8, 2026).¹

9 On December 3, 2025, ICE re-detained Mr. Yahyapour. In the months
10 since, Mr. Yahyapour has not been given a chance to contest the reasons for his
11 re-detention, as required under ICE regulations. 8 C.F.R. §§ 241.13(i)(3),
12 241.4(l). Nor has he received positive news regarding the possibility Iran will
13 accept him for removal.

14 This habeas petition raises the following two claims:

15 **(1) *Zadvydas* violations:** Mr. Yahyapour must be released under *Zadvydas*
16 because—having proved unable to remove him for the last decade and a half,
17 including during a cumulative total of more than six months of post-order
18 detention—the government cannot show that there is a “significant likelihood of
19 removal in the reasonably foreseeable future.” *Id.* at 701. *See, e.g., Bunnell v.*
20 *Noem*, No. 25-cv-2259-GMN-EJY, 2025 WL 3707588 (D. Nev. Dec. 22, 2025);
21 *Asfetani v. Current or Acting Field Office*, No. 25-cv-1562-SCR, 2025 WL
22 3677321 (E.D. Cal. Dec. 18, 2025); *Ghadesi v. Wamsley*, No. 25-cv-1984-RSM-
23 BAT, 2025 WL 3699705 (W.D. Wash. Dec. 1, 2025), *report and recommendation*
24 *adopted in Ghadesi v Wamsley*, 2025 WL 3697208 (Dec. 19, 2025) (each
25 granting habeas petitions or preliminary injunctions ordering release in light of
26 *Zadvydas* violations as to detained Iranian nationals ordered removed to Iran).

27 _____
28 ¹ Available at <https://www.reuters.com/world/asia-pacific/us-iran-ceasefire-what-we-know-2026-04-08/>.

1 **(2) Regulatory and due process violations:** Mr. Yahyapour must also be
2 released because ICE’s failure to follow its own regulations about providing an
3 informal interview and a meaningful opportunity to be heard following re-
4 detention has violated the *Accardi* doctrine and due process. *See, e.g., Bui v.*
5 *Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Thai v.*
6 *Noem*, No. 25-cv-2436-RBM, ECF No. 10, 12 (S.D. Cal. Oct. 17, 2025);
7 *Constantinovici v. Bondi*, __ F. Supp. 3d __, 2025 WL 2898985, No. 25-cv-2405-
8 RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-
9 2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Truong v. Noem*, No. 25-cv-
10 02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v Noem*,
11 No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*,
12 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Rokhfirooz*
13 *v Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025)
14 (all finding ICE regulatory violations during recent re-detentions of released
15 noncitizens previously ordered removed under 8 C.F.R. §§ 241.13(i), 241.4(l)).

16 **II. Statement of Facts**

17 **A. Mr. Yahyapour comes to the United States as a child, is ordered** 18 **removed in 2011, and is re-detained by ICE in December 2025.**

19 Farhad Yahyapour Ghazvini was born in Iran. Exhibit A, Declaration of
20 Farhad Yahyapour Ghazvini, ¶ 1. He came to the United States on a green card
21 when he was a child. *Id.*

22 In 2011, Mr. Yahyapour was ordered removed to Iran. *Id.* ¶ 2; Exhibit B.
23 He was detained in ICE custody “for about three months after [he] was ordered
24 removed.” Exhibit A ¶ 2. Because he could not be removed, ICE then released
25 him on an order of supervision. *Id.*

26 Since 2011, Mr. Yahyapour has been to prison three times. The first time,
27 “ICE picked [him] up.” *Id.* ¶ 3. Because he could not be deported, ICE released
28 him “the same day and put [him] back on an order of supervision and told [him]

1 to check in.” *Id.* The next time, in 2021, he “had an immigration hold,” but ICE
2 did not even “pick[] him up.” *Id.* ¶ 4.

3 “This time, [he] was released from prison on December 3, 2025, and ICE
4 picked [him] up.” *Id.* ¶ 5. He says that, as best he can remember, “They gave me
5 paperwork saying they had 90 days to try to deport me and they had me sign it.
6 They didn’t give me a chance to explain why they wouldn’t be able to deport me
7 because they hadn’t been able to before.” *Id.* He has remained detained at the
8 Otay Mesa Detention Center.

9 Since December, he has not “ever been able to talk to ICE since [he’s]
10 arrived in ICE custody.” *Id.* ¶ 6.

11 Mr. Yahyapour has also not received promising news from a representative
12 of Iran. Right before the war began, “[a]bout two months ago,” he remembers:

13 [A]n officer told me I had a legal visit. I came to the legal visit
14 room and picked up the phone It was a woman from the
15 Iranian embassy in Washington. The woman told me that it was
16 more likely than not that they couldn’t get my travel documents
17 because I don’t have any paperwork from Iran and I don’t have any
family in Iran anymore. She said they’d try to get my documents
but it was more than likely they wouldn’t be able to.

18 Exhibit A ¶ 7.

19 **B. It is extremely challenging for the United States to deport people
20 to Iran even when it is not in the midst of a war.**

21 The United States has not had normalized relations with Iran since the
22 Islamic Revolution of 1979. *See generally* Council on Foreign Relations, *1953–*
*2025· U.S. Relations With Iran.*²

23 As President Trump found last year when banning the entry of Iranian
24 nationals into the United States, Iran “has historically failed to accept back its
25 removable nationals.” Presidential Proclamation, *Restricting the Entry of Foreign*
26 *Nationals to Protect the United States from Foreign Terrorists and Other*
27

28 _____
² Available at <https://www.cfr.org/timeline/us-relations-iran-1953-2025>.

1 *National Security and Public Safety Threats*, June 4, 2025³; accord Presidential
2 Proclamation, *Restricting and Limiting the Entry of Foreign Nationals to Protect*
3 *the Security of the United States*, Dec. 16, 2025.⁴

4 Iran has long been among the top fifteen most uncooperative countries the
5 United States faces when seeking to repatriate immigrants it has ordered deported,
6 alongside other countries like Cuba. See Exhibit C at 30 (Office of Inspector
7 General, Department of Homeland Security, *ICE Faces Barriers in Timely*
8 *Repatriation of Detained Aliens*, March 11, 2019); Exhibit D at 3, 7
9 (Memorandum from ICE ERO, November 2024). In November 2024, there were
10 over 2,600 Iranians with final orders of removal who could not be deported within
11 the United States. Exhibit D at 3.

12 Iran is also currently in the midst of a war with the United States. The
13 countries announced a two-week ceasefire last night, which Vice President Vance
14 called “fragile.” Council on Foreign Relations, *The U.S. and Iran struck a Two-*
15 *Week Truce. Now What?* (Apr. 8, 2026)⁵. “Whether the temporary ceasefire will
16 lease to a lasting peace settlement remains to be seen.” *Id.*

17 **III. This Court has jurisdiction.**

18 This Court has jurisdiction to consider Mr. Yahyapour’s claims of unlawful
19 detention under 28 U.S.C. § 2241.

20 The government’s recent argument otherwise, that 8 U.S.C. § 1252(g) strips
21 this Court of jurisdiction, lacks merit. Its argument “would eliminate judicial
22

23 ³ Available at [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)
24 [actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)
25 [states-from-foreign-terrorists-and-other-national-security-and-public-safety-](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/)
26 [threats/](https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/).

26 ⁴ Available at [https://www.whitehouse.gov/presidential-](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)
27 [actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/)
28 [the-security-of-the-united-states/](https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/).

28 ⁵ Available at [https://www.cfr.org/articles/the-u-s-and-iran-struck-a-two-week-](https://www.cfr.org/articles/the-u-s-and-iran-struck-a-two-week-truce-now-what)
[truce-now-what](https://www.cfr.org/articles/the-u-s-and-iran-struck-a-two-week-truce-now-what).

1 review of immigration [detainees'] claims of unlawful detention . . . inconsistent
2 with *Jennings v. Rodriguez* and the history of judicial review of the detention of
3 noncitizens under 28 U.S.C. § 2241.” *Phan v. Noem*, No. 25-cv-2422-RBM, 2025
4 WL 2898977, *3 (S.D. Cal. Oct. 10, 2025) (collecting cases agreeing on this
5 jurisdictional point); *accord Sun v Noem*, No. 25-cv-2433-CAB, 2025 WL
6 2800037, *2 (S.D. Cal. Sept. 30, 2025).

7 IV. Legal Analysis.

8 A. Claim 1: Mr. Yahyapour’s detention violates *Zadvydas* and 9 8 U.S.C. § 1231.

- 10 1. **Legal background: The statute, as interpreted by**
11 ***Zadvydas*, renders detention mandatory for 90 days after**
12 **removal is ordered and allowable after six months after**
13 **removal is ordered only if there is a significant likelihood**
14 **of removal in the reasonably foreseeable future.**

15 In *Zadvydas v Davis*, 533 U.S. 678 (2001), the Supreme Court considered
16 a problem affecting people like Mr. Yahyapour: Federal law requires ICE to
17 detain an immigrant during the “removal period,” which typically spans the first
18 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After
19 that 90-day removal period expires, detention becomes discretionary—ICE may
20 detain the migrant while continuing to try to remove them. *Id.* § 1231(a)(6).
21 Ordinarily, this scheme would not lead to excessive detention, as removal
22 happens within days or weeks. But some detainees cannot be removed quickly.
23 Perhaps their removal “simply require[s] more time for processing,” or they are
24 “ordered removed to countries with whom the United States does not have a
25 repatriation agreement,” or their countries “refuse to take them,” or they are
26 “effectively ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v.*
27 *Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances,
28 detained immigrants can find themselves trapped in detention for months, years,
decades, or even the rest of their lives. If federal law were understood to allow for
“indefinite, perhaps permanent, detention,” it would pose “a serious constitutional

1 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
2 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.
3 *Id.* at 689.

4 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to
5 detain an immigrant for six months after his or her removal order becomes final.
6 After those six months have passed, the immigrant must be released unless his or
7 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. The petitioner
8 must only make a prima facie case for relief— there is “good reason to believe
9 that there is no significant likelihood of removal in the reasonably foreseeable
10 future.” *Id.* Then the burden shifts to “the Government [to] respond with evidence
11 sufficient to rebut that showing.” *Id.*

12 Further, even before the six months have passed, the immigrant must still
13 be released if he *rebutts* the presumption that his detention is reasonable. *See, e.g.,*
14 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases
15 on rebutting the *Zadvydas* presumption before six months have passed).

16 Mr. Yahyapour can make all the threshold showings needed to shift the
17 burden to the government, or in the alternative, prove outright that his removal is
18 not significantly likely in the reasonably foreseeable future.

19 **2. Mr. Yahyapour’s six-month grace period expired in 2014,**
20 **and regardless, he has now been in custody for more than**
21 **six months.**

22 The six-month grace period has long since ended. The *Zadvydas* grace
23 period is linked to the date the final order of removal is issued. It lasts for “six
24 months after a final order of removal—that is, three months after the statutory
25 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th
26 Cir. 2001). Indeed, the statute defining the beginning of the removal period is
27
28

1 linked to the latest of three dates, all of which relevant here are tied to when the
2 removal order is issued. 8 U.S.C. § 1231(a)(1)(B).⁶

3 Mr. Yahyapour was ordered removed order in November 2011. Exhibit A
4 ¶ 2; Exhibit B. His *Zadvydas* grace period three months after the removal period
5 ended, in May 2012. *See, e.g., Tadros v. Noem*, 2025 WL 1678501, No. 25-cv-
6 4108(EP), *2-*3.

7 Regardless, Mr. Yahyapour has been detained for a cumulative total of
8 more than six months since 2011. He was detained for three months following his
9 removal order, and has now been detained for over four months since he was most
10 recently arrested by ICE. Exhibit A ¶¶ 2, 5. The *Zadvydas* grace period has
11 expired.

12 **3. Mr. Yahyapour’s experience provides good reason to**
13 **believe that he will not likely be removed in the reasonably**
14 **foreseeable future.**

15 This Court uses a burden-shifting framework to evaluate Mr. Yahyapour’s
16 *Zadvydas* claim. At the first stage of the framework, Mr. Yahyapour must
17 “provide[] good reason to believe that there is no significant likelihood of removal
18 in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This standard
19 can be broken down into three parts.

20 “Good reason to believe.” The “good reason to believe” standard is a
21 relatively forgiving one. “A petitioner need not establish that there exists no
22 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
23 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
24 believe’ . . . place a burden upon the detainee to demonstrate no reasonably
25 foreseeable, significant likelihood of removal or show that his detention is

26 ⁶ Those dates are, specifically, (1) “[t]he date the order of removal becomes
27 administratively final;” (2) “[i]f the removal order is judicially reviewed and if a
28 court orders a stay of the removal of the alien, the date of the court’s final order;”
or (3) “[i]f the alien is detained or confined (except under an immigration
process), the date the alien is released from detention or confinement.” *Id*

1 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
2 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401
3 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
4 Petitioners need only give a “good reason”—not prove anything to a certainty.

5 **“Significant likelihood of removal.”** This component focuses on whether
6 Mr. Yahyapour will likely be removed: Continued detention is permissible only if
7 it is “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*, 533
8 U.S. at 701. This inquiry targets “not only the *existence* of untapped possibilities,
9 but also [the] probability of *success* in such possibilities.” *Elashi v. Sabol*, 714 F.
10 Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added).

11 In other words, even if “there remains *some* possibility of removal,” a
12 petitioner can still meet its burden if there is good reason to believe that
13 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
14 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

15 **“In the reasonably foreseeable future.”** This component of the test
16 focuses on when Mr. Yahyapour will likely be removed: Continued detention is
17 permissible only if removal is likely to happen “in the reasonably foreseeable
18 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
19 removal efforts.

20 If the Court has “no idea of when it might reasonably expect [Petitioner] to
21 be repatriated, this Court certainly cannot conclude that his removal is likely to
22 occur—or even that it might occur—in the reasonably foreseeable future.” *Palma*
23 *v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3 (S.D. Miss. July
24 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss.
25 Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y.
26 2019)).

27 Even if this Court concludes that Mr. Yahyapour “would *eventually*
28 receive” a travel document, he can still meet his burden by giving good reason to

1 anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2
2 (E.D. Mich. Nov. 14, 2016).

3 Mr. Yahyapour satisfies this standard for two reasons.

4 First, Mr. Yahyapour’s own experience bears this out. ICE has now had
5 over a decade and a half to deport him to Iran. Yet ICE has proved unable to
6 remove him. Right before the war, a representative of Iran informed him it “was
7 more likely than not that they couldn’t get [his] travel documents.” Exhibit A ¶ 7.

8 Second, the current and historical experiences of Iranian nationals in the
9 United States generally confirm that Mr. Yahyapour will not be removed in the
10 reasonably foreseeable future. President Trump concluded last year that Iran “has
11 historically failed to accept back its removable nationals.” Presidential
12 Proclamation, June 4, 2025, *supra* page 4 n.6. In late 2024, ICE identified over
13 2,600 Iranian citizens with final orders of removal who it could not remove to
14 Iran. Exhibit D at 3. It explained that the reason so many are not deportable is in
15 part because Iran is one of fifteen countries ICE “considers . . . to be
16 uncooperative” with repatriation of its citizens. *Id.* at 7.

17 Mr. Yahyapour is thus at least as similarly situated to the Iranian national
18 ordered released a few months ago, before the war began, in *Ghasedi*, 2025 WL
19 3699705 at *3–*5. There, as here, “the government has failed to remove him for”
20 years, “states no timeframe for removal, and has not yet obtained a travel
21 document for him from Iran or another country.” *Id.* at *3. There, as here, in light
22 of Iran’s status as “one of 15 ‘uncooperative’ countries that does not facilitate
23 deportations of its citizens,” the habeas petitioner had met his burden under
24 *Zadvydas. Id.*

25 Thus, Mr. Yahyapour has met his initial burden, and the burden shifts to the
26 government. Unless the government can prove a “significant likelihood of
27 removal in the reasonably foreseeable future,” Mr. Yahyapour must be released.
28 *Zadvydas*, 533 U.S. at 701.

1 **B. Claim 2: ICE failed to comply with its own regulations while re-**
2 **detaining Mr. Yahyapour, violating his rights under applicable**
3 **regulations and due process.**

4 ICE is required to follow its own regulations. *United States ex rel. Accardi*
5 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v INS*, 384 F.3d 1150,
6 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to
7 abide by certain internal policies is well-established.”). A court may review a re-
8 detention decision for compliance with the regulations, and “where ICE fails to
9 follow its own regulations in revoking release, the detention is unlawful and the
10 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4
11 (collecting cases); *accord Phan*, 2025 WL 2898977 at *5.

12 Two regulations establish the process due to someone who is re-detained in
13 immigration custody following a period of release after being ordered removed. 8
14 C.F.R. § 241.4(l) applies to all re-detentions, generally. 8 C.F.R. § 241.13(i)
15 applies as an added, overlapping framework to persons released upon good reason
16 to believe that they will not be removed in the reasonably foreseeable future, as
17 Mr. Yahyapour apparently was. *See Phan*, 2025 WL 2898977 at *3–*5
18 (explaining this regulatory framework and granting a habeas petition for ICE’s
19 failure to follow these regulations for a refugee of Vietnam who entered the
20 United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL
21 2646165 at *2 (same as to an Iranian national).

22 These regulations permit an official to “return [the person] to custody”
23 when the person “violate[d] any of the conditions of release,” 8 C.F.R.
24 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official
25 “determines that there is a significant likelihood that the alien may be removed in
26 the reasonably foreseeable future,” and makes that finding “on account of
27 changed circumstances,” § 241.13(i)(2).

28 No matter the reason for re-detention, the re-detained person is entitled to
certain procedural protections. For one, “[u]pon revocation,” the noncitizen “will

1 be notified of the reasons for revocation of his or her release.” *Phan*, 2025 WL
2 2898977 at *3, *4 (quoting §§ 241.4(l)(1), 241.13(i)(3)). Further, the person
3 “‘will be afforded an initial informal interview promptly after his or her return’ to
4 be given ‘an opportunity to respond to the reasons for revocation stated in the
5 notification.’” *Id*

6 In the case of someone released under § 241.13(i), the regulations also
7 explicitly require the interviewer to allow the re-detained person to “submit any
8 evidence or information that he or she believes shows there is no significant
9 likelihood he or she be removed in the reasonably foreseeable future, or that he or
10 she has not violated the order of supervision.” § 241.13(i)(3).

11 ICE followed few of its regulatory prerequisites to re-detention or
12 continued detention here.

13 For one, Mr. Yahyapour has never received the informal interview required
14 by regulation. §§ 241.13(i)(2); 241.4(l)(1). He has never had “a chance to explain
15 why they wouldn’t be able to deport [him],” and has never “been able to talk to
16 ICE since [he has] arrived in ICE custody.” Exhibit A ¶¶ 5–6.

17 Further, Mr. Yahyapour has not been afforded a meaningful opportunity to
18 respond to the reasons for revocation or submit evidence rebutting his re-
19 detention. §§ 241.13(i)(2); 241.4(l)(1).

20 Numerous courts have released re-detained immigrants after finding that
21 ICE failed to comply with some or all of the applicable regulations this summer
22 and fall. *See, e.g., Villanueva v. Tate*, ___ F. Supp. 3d ___, 2025 WL 2774610 (S.D.
23 Tex. Sept. 26, 2025); *Ceesay v Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y.
24 2025); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7–9
25 (S.D.N.Y. Aug. 26, 2025); *M S L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL
26 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v Noem*, No. 9:25-CV-
27 00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025); *Hoac v.*
28 *Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July

1 16, 2025); *Liu v. Carter*, 2025 WL 1696526, *2 (D. Kan. June 17, 2025); *M.Q. v.*
2 *United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025); *Bui v.*
3 *Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Thai v.*
4 *Noem*, No. 25-cv-2436-RBM, ECF No. 10, 12 (S.D. Cal. Oct. 17, 2025);
5 *Constantinovici v. Bondi*, __ F. Supp. 3d __, 2025 WL 2898985, No. 25-cv-2405-
6 RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-
7 2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Truong v. Noem*, No. 25-cv-
8 02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*,
9 No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*,
10 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Tran v.*
11 *Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29, 2025);
12 *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept.
13 15, 2025).

14 “[B]ecause officials did not properly revoke petitioner’s release pursuant to
15 the applicable regulations, that revocation has no effect, and [Mr. Yahyapour] is
16 entitled to his release (subject to the same Order of Supervision that governed his
17 most recent release).” *Liu*, 2025 WL 1696526, at *3.

18 **V. This Court must hold an evidentiary hearing on any disputed facts.**

19 Resolution of a prolonged-detention habeas petition may require an
20 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).

21 Mr. Yahyapour hereby requests such a hearing on any material, disputed facts.

22 **VI. Prayer for relief.**

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

- 24 1. Order and enjoin Respondents to immediately release Petitioner from
25 custody;
- 26 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
27 § 1231(a)(6) unless and until Respondents obtain a travel document
28 for his removal;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Enjoin Respondents from re-detaining Petitioner without first following all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures; and
4. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: April 8, 2026

s/ Jessie Agatstein
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Yahyapour
Email: jessie_agatstein@fd.org