

1 **Katie Hurrelbrink**  
2 Federal Defenders of San Diego, Inc.  
3 225 Broadway, Suite 900  
4 San Diego, California 92101-5030  
5 Telephone: (619) 234-8467  
6 Facsimile: (619) 687-2666  
7 katie\_hurrelbrink@fd.org

8 Attorneys for Mr. Issa



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

11 IDRISS ZAKARIA ISSA,  
12 Petitioner,

13 v.

14 MARKWAYNE MULLIN, Secretary of  
15 the Department of Homeland Security,  
16 TODD BLANCHE, Acting Attorney  
17 General, TODD M. LYONS, Acting  
18 Director, Immigration and Customs  
19 Enforcement, JESUS ROCHA, Acting  
20 Field Office Director, San Diego Field  
21 Office, JEREMY CASEY, Warden at  
22 Imperial Regional Detention Center,

23 Respondents.

CIVIL CASE NO.: '26CV2117 BJC DDL

Petition for Writ  
of  
Habeas Corpus  
[28 U.S.C. § 2241]

1 INTRODUCTION

2 On September 26, 2025, Idriss Issa was ordered removed to Sudan. Yet  
3 ICE has proved unable to remove him for over six months (though it appears that  
4 his removal order became administratively final about five months and one week  
5 ago). That makes sense, because Sudan is two and a half years into a brutal civil  
6 war, resulting in one of the world’s worst current humanitarian crises. It lacks a  
7 functioning central authority for issuing passports and civil documents. Its capital  
8 city airport, Khartoum International, is closed to commercial flights for the  
9 foreseeable future. Its smaller other airport is also regularly closed to commercial  
10 flights due to drone strikes.

11 Thus, because “there is no significant likelihood of removal in the  
12 reasonably foreseeable future,” Mr. Issa’s detention is no longer statutorily  
13 authorized, and this Court must order his immediate release. *Zadvydas v. Davis*,  
14 533 U.S. 678 (2001).

15 STATEMENT OF FACTS

16 **I. ICE has made no apparent progress in removing Mr. Issa to Sudan.**

17 Mr. Issa was born in Sudan on [REDACTED] Exh. A at ¶ 1. He fled to  
18 the United States, entering on March 10, 2025. *Id.* An immigration judge denied  
19 his asylum claim on September 26, 2025. *Id.* at ¶ 2. He did not appeal, though he  
20 may have reserved his right to do so. *Id.*

21 Since then, ICE has met with him only two times to discuss his removal to  
22 Sudan. *Id.* at ¶ 3. On one of those occasions, ICE asked him for a passport, but he  
23 does not have one. *Id.* He has seen no indication since then that ICE has accepted  
24 him for removal, and ICE has made no claim to that effect. *Id.* at ¶ 4.

25 There is good reason to think that ICE will not be able to secure that  
26 acceptance. As President Trump found earlier this year when banning the entry of  
27 Sudanese nationals into the United States, Sudan “lacks a competent or  
28

1 cooperative central authority for issuing passports or civil documents.”  
2 Presidential Proclamation, *Restricting the Entry of Foreign Nationals to Protect*  
3 *the United States from Foreign Terrorists and Other National Security and Public*  
4 *Safety Threats*, June 4, 2025.<sup>1</sup>

5 Sudan has long been a challenging place to repatriate immigrants ordered  
6 deported. It was on a list of countries “at risk of noncompliance” with their  
7 obligations to receive nationals in 2016, 2017, and 2018, and in late 2024, there  
8 were over 1,000 Sudanese people with final orders of removal in the United States  
9 whom the United States was unable to deport. *See* Office of Inspector General,  
10 Department of Homeland Security, *ICE Faces Barriers in Timely Repatriation of*  
11 *Detained Aliens*, March 11, 2019, at 30; Memorandum from ICE ERO, November  
12 2024, at 5.<sup>2</sup>

13 The situation will not improve in the near future. The State Department  
14 suspended the operations of the U.S. Embassy in Karthoum in April 2023 “due to  
15 the outbreak of armed conflict,” which “continues,” and State still places Sudan at  
16 the highest level travel advisory, “Level 4: Do not travel.” U.S. Department of  
17 State, *Sudan Travel Advisory* (Oct. 15, 2025).<sup>3</sup> “The situation is violent, volatile,  
18 and extremely unpredictable.” *Id.* The capital city’s airport is “currently closed to  
19 commercial traffic,” and the other airport’s commercial traffic has been “limited  
20 at times due to drone strikes.” *Id.*

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22  
23 <sup>1</sup> 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/).

27 <sup>2</sup> Available at [https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-](https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf)  
28 [28-Mar19.pdf](https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf);  
[https://static.foxnews.com/foxnews.com/content/uploads/2024/12/get-backs-re-](https://static.foxnews.com/foxnews.com/content/uploads/2024/12/get-backs-re-non-detained-docket-1.pdf)  
[non-detained-docket-1.pdf](https://static.foxnews.com/foxnews.com/content/uploads/2024/12/get-backs-re-non-detained-docket-1.pdf).

<sup>3</sup> Available at [https://travel.state.gov/en/international-travel/travel-](https://travel.state.gov/en/international-travel/travel-advisories/sudan.html)  
[advisories/sudan.html](https://travel.state.gov/en/international-travel/travel-advisories/sudan.html).

1 International observers agree that, currently, “Sudan is experiencing the  
2 world’s worst humanitarian crisis, driven by a brutal [civil] war.” Jeffrey Feltman  
3 & Michael E. O’Hanlon, *The catastrophe in Sudan*, The Current: Brookings  
4 (Nov. 24, 2025).<sup>4</sup> “As the war rages on, Sudan is enduring the world’s largest and  
5 fastest-growing internal displacement crisis, with several rights groups and the  
6 United States describing the violence—particularly in Darfur—as genocide.”  
7 Mariel Ferragamo & Diana Roy, *What is the Extent of Sudan’s Humanitarian*  
8 *Crisis?*, Council on Foreign Relations (Nov. 6, 2025).<sup>5</sup>

9  
10 **II. The government is carrying out deportations to third countries without  
providing sufficient notice and opportunity to be heard.**

11 If ICE cannot successfully remove Mr. Issa to Sudan, ICE may attempt to  
12 remove him to a third country. If so, he is in grave danger of removal without due  
13 process.

14 The Trump administration reportedly has negotiated with at least 58  
15 countries to accept deportees from other nations. Edward Wong et al, *Inside the*  
16 *Global Deal-Making Behind Trump’s Mass Deportations*, N.Y. Times, June 25,  
17 2025. On June 25, 2025, the New York Times reported that seven countries—  
18 Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—  
19 had agreed to accept deportees who are not their own citizens. *Id.* Since then, ICE  
20 has carried out highly publicized third country deportations to South Sudan and  
21 Eswatini.

22 The Administration has reportedly negotiated with countries to have many  
23 of these deportees imprisoned in prisons, camps, or other facilities. The  
24 government paid El Salvador about \$5 million to imprison more than 200  
25 deported Venezuelans in a maximum-security prison notorious for gross human  
26

27 <sup>4</sup> Available at <https://www.brookings.edu/articles/the-catastrophe-in-sudan/>.

28 <sup>5</sup> Available at <https://www.cfr.org/in-brief/what-extent-sudans-humanitarian-crisis>.

1 rights abuses, known as CECOT. *See id.* In February, Panama and Costa Rica  
2 took in hundreds of deportees from countries in Africa and Central Asia and  
3 imprisoned them in hotels, a jungle camp, and a detention center. *Id.*; Vanessa  
4 Buschschluter, *Costa Rican court orders release of migrants deported from U.S.*,  
5 BBC (Jun. 25, 2025). On July 4, 2025, ICE deported eight men, including one  
6 pre-1995 Vietnamese refugee, to South Sudan. *See Wong, supra.* On July 15, ICE  
7 deported five men to the tiny African nation of Eswatini, including one man from  
8 Vietnam, where they are reportedly being held in solitary confinement. Gerald  
9 Imray, *3 Deported by US held in African Prison Despite Completing Sentences*,  
10 *Lawyers Say*, PBS (Sept. 2, 2025). Many of these countries are known for human  
11 rights abuses or instability. For instance, conditions in South Sudan are so  
12 extreme that the U.S. State Department website warns Americans not to travel  
13 there, and if they do, to prepare their will, make funeral arrangements, and appoint  
14 a hostage-taker negotiator first. *See Wong, supra.*

15 On June 23 and July 3, 2025, the Supreme Court issued a stay of a national  
16 class-wide preliminary injunction issued in *D.V.D. v. U.S. Department of*  
17 *Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968, at \*1, 3 (D.  
18 Mass. Apr. 18, 2025), which required ICE to follow statutory and constitutional  
19 requirements before removing an individual to a third country. *U.S. Dep't of*  
20 *Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (mem.); *id.*, No. 24A1153, 2025  
21 WL 1832186 (U.S. July 3, 2025).<sup>6</sup> On July 9, 2025, ICE rescinded previous  
22

23  
24 <sup>6</sup> Though the Supreme Court's order was unreasoned, the dissent noted that the  
25 government had sought a stay based on procedural arguments applicable only to  
26 class actions. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025)  
27 (Sotomayor, J., dissenting). Thus, "even if the Government [was] correct that  
28 classwide relief was impermissible" in *D.V.D.*, Respondents still "remain[]  
obligated to comply with orders enjoining [their] conduct with respect to individual  
plaintiffs" like Mr. Issa. *Id.* Thus, the Supreme Court's decision does not override  
courts' authority to grant individual injunctive relief. *See Nguyen v. Scott*, No. 2:25-

1 guidance meant to give immigrants a “‘meaningful opportunity’ to assert claims  
2 for protection under the Convention Against Torture (CAT) before initiating  
3 removal to a third country” like the ones just described. Exh. B.

4 Under the new guidance, ICE may remove any immigrant to a third country  
5 “without the need for further procedures,” as long as—in the view of the State  
6 Department—the United States has received “credible” “assurances” from that  
7 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails  
8 to credibly promise not to persecute or torture releasees, ICE may still remove  
9 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours’  
10 notice. But “[i]n exigent circumstances,” a removal may take place in as little as  
11 six hours, “as long as the alien is provided reasonably means and opportunity to  
12 speak with an attorney prior to the removal.” *Id.*

13 Upon serving notice, ICE “will not affirmatively ask whether the alien is  
14 afraid of being removed to the country of removal.” *Id.* (emphasis original). If the  
15 noncitizen “does not affirmatively state a fear of persecution or torture if removed  
16 to the country of removal listed on the Notice of Removal within 24 hours, [ICE]  
17 may proceed with removal to the country identified on the notice.” *Id.* at 2. If the  
18 noncitizen “does affirmatively state a fear if removed to the country of removal”  
19 then ICE will refer the case to U.S. Citizenship and Immigration Services  
20 (“USCIS”) for a screening for eligibility for withholding of removal and  
21 protection under the Convention Against Torture (“CAT”). *Id.* at 2. “USCIS will  
22 generally screen within 24 hours.” *Id.* If USCIS determines that the noncitizen  
23 does not meet the standard, the individual will be removed. *Id.* If USCIS  
24 determines that the noncitizen has met the standard, then the policy directs ICE to  
25 either move to reopen removal proceedings “for the sole purpose of determining  
26

27  
28 CV-01398, 2025 WL 2419288, at \*20–23 (W.D. Wash. Aug. 21, 2025).

1 eligibility for [withholding of removal protection] and CAT” or designate another  
2 country for removal. *Id.*

3  
4 **CLAIMS FOR RELIEF**

5 This Court should grant this petition and order Mr. Issa’s immediate  
6 release, because there is “no significant likelihood of removal in the reasonably  
7 foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The Court  
8 should also enjoin his removal without due process.

9 **I. Count 1: Mr. Issa’s detention violates *Zadvydas* and 8 U.S.C. § 1231.**

10 **A. Legal background**

11 Mr. Issa’s indefinite detention violates the statute authorizing detention, 8  
12 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme  
13 Court considered a problem affecting people like Mr. Issa. Federal law requires  
14 ICE to detain an immigrant during the “removal period,” which typically spans  
15 the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-  
16 (2). After that 90-day removal period expires, detention becomes discretionary—  
17 ICE may detain the migrant while continuing to try to remove them. *Id.*

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

27 If federal law were understood to allow for “indefinite, perhaps permanent,  
28 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at

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

3 As an initial matter, *Zadvydas* held that detention is “presumptively  
4 reasonable” for at least six months. *Id.* at 701. This acts as a kind of grace period  
5 for effectuating removals.

6 Following the six-month grace period, courts must use a burden-shifting  
7 framework to decide whether detention remains authorized. First, the petitioner  
8 must make a prima facie case for relief: He must prove that there is “good reason  
9 to believe that there is no significant likelihood of removal in the reasonably  
10 foreseeable future.” *Id.*

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

16 **A. The six-month grace period will expire before the court decides**  
17 **this petition.**

18 As an initial matter, the six-month grace period has either ended (if Mr. Issa  
19 did not reserve appeal) or will be done by the time this petition is decided (if he  
20 did reserve appeal). *See* Exh. A at ¶ 2. The *Zadvydas* grace period lasts for “six  
21 months after a final order of removal—that is, *three months* after the statutory  
22 removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th  
23 Cir. 2001). Here, Mr. Issa was ordered removed on September 26, 2025. Exh. A  
24 at ¶ 2. Accordingly, his 90-day removal period began then. 8 U.S.C.

25 § 1231(a)(1)(B). The *Zadvydas* grace period will thus expire six months after the  
26 removal order became final, either on March 26, 2026 (if he did not reserve  
27 appeal) or April 26, 2026 (if he did reserve). Exh. A at ¶ 2. The threshold  
28 requirement will therefore be met at least by the time this Court decides the case.

1           **B. There is good reason to believe that there is no significant**  
2           **likelihood of Mr. Issa removal in the reasonably foreseeable**  
3           **future.**

4           Because the six-month grace period will have passed, this Court must  
5           evaluate Mr. Issa’s *Zadvydas* claim using the burden-shifting framework. At the  
6           first stage of the framework, there must be “good reason to believe that there is no  
7           significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,  
8           533 U.S. at 701. This standard can be broken down into three parts.

9           **“Good reason to believe.”** The “good reason to believe” standard is a  
10          relatively forgiving one. “A petitioner need not establish that there exists no  
11          possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL  
12          10714999, at \*3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to  
13          believe’ . . . place a burden upon the detainee to demonstrate no reasonably  
14          foreseeable, significant likelihood of removal or show that his detention is  
15          indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,  
16          2020 WL 3972319, at \*3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401  
17          F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:  
18          Petitioners need only give a “good reason”—not prove anything to a certainty.

19          **“No significant likelihood of removal.”** This component focuses on  
20          whether Mr. Issa will likely be removed: Continued detention is permissible only  
21          if it is “significant[ly] like[ly]” that ICE will be able to remove him. *Zadvydas*,  
22          533 U.S. at 701. This inquiry targets “not only the *existence* of untapped  
23          possibilities, but also [the] probability of *success* in such possibilities.” *Elashi v.*  
24          *Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In  
25          other words, even if “there remains *some* possibility of removal,” a petitioner can  
26          still meet its burden if there is good reason to believe that successful removal is  
27          not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL  
28          31520362, at \*4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

1           **“In the reasonably foreseeable future.”** This component of the test  
2 focuses on when Mr. Issa will likely be removed: Continued detention is  
3 permissible only if removal is likely to happen “in the reasonably foreseeable  
4 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s  
5 removal efforts. If the Court has “no idea of when it might reasonably expect  
6 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal  
7 is likely to occur—or even that it might occur—in the reasonably foreseeable  
8 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3  
9 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL  
10 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d  
11 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Issa  
12 “would *eventually* receive” a travel document, he can still meet his burden by  
13 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,  
14 2016 WL 6679830, at \*2 (E.D. Mich. Nov. 14, 2016).

15           Mr. Issa has good reason to doubt his likelihood of removal in the  
16 reasonably foreseeable future. ICE appears to have made no progress in removing  
17 him in nearly six months. Exh. A at ¶¶ 2–4. And there is a good explanation for  
18 the hold up: As explained *supra*, the United States has historically had trouble  
19 deporting people to Sudan, and the situation has only deteriorated in recent years  
20 due to civil war. President Trump declared earlier this year that Sudan “lacks a  
21 competent or cooperative central authority for issuing passports or civil  
22 documents.” Presidential Proclamation, *supra*. Without a functioning government  
23 to coordinate his return, there is good reason to think that removal will not be  
24 swift or sure.

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

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

3 If ICE does not succeed in removing Mr. Issa to Sudan, ICE may attempt to  
4 remove him to a third country. It would do so under a policy that violates the Fifth  
5 Amendment, the Convention Against Torture, and implementing regulations.

6 **A. Legal background**

7 U.S. law enshrines protections against dangerous and life-threatening  
8 removal decisions. By statute, the government is prohibited from removing an  
9 immigrant to any third country where they may be persecuted or tortured, a form  
10 of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The  
11 government “may not remove [a noncitizen] to a country if the Attorney General  
12 decides that the [noncitizen’s] life or freedom would be threatened in that country  
13 because of the [noncitizen’s] race, religion, nationality, membership in a particular  
14 social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16.  
15 Withholding of removal is a mandatory protection.

16 Similarly, Congress codified protections enshrined in the CAT prohibiting  
17 the government from removing a person to a country where they would be tortured.  
18 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of  
19 the United States not to expel, extradite, or otherwise effect the involuntary return  
20 of any person to a country in which there are substantial grounds for believing the  
21 person would be in danger of being subjected to torture, regardless of whether the  
22 person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.*  
23 §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

24 To comport with the requirements of due process, the government must  
25 provide notice of the third country removal and an opportunity to respond. Due  
26 process requires “written notice of the country being designated” and “the statutory  
27 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*  
28 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S.*

1 *Dep't of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at \*1 (D.  
2 Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

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

12 If the noncitizen claims fear, measures must be taken to ensure that the  
13 noncitizen can seek asylum, withholding, and relief under CAT before an  
14 immigration judge in reopened removal proceedings. The amount and type of  
15 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and  
16 circumstances, he would have a reasonable opportunity to raise and pursue his  
17 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009  
18 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132  
19 F.3d 405, 408 (7th Cir. 1998)); cf. *D.V.D.*, 2025 WL 1453640, at \*1 (requiring the  
20 government to move to reopen the noncitizen’s immigration proceedings if the  
21 individual demonstrates “reasonable fear” and to provide “a meaningful  
22 opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening  
23 of their immigration proceedings” if the noncitizen is found to not have  
24 demonstrated “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice  
25 and time for a respondent to file a motion to reopen and seek relief).

26 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,  
27 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App'x 724 (9th Cir. 2016), and  
28 for good reason: To have a meaningful opportunity to apply for fear-based

1 protection from removal, immigrants must have time to prepare and present  
2 relevant arguments and evidence. Merely telling a person where they may be sent,  
3 without giving them a chance to look into country conditions, does not give them a  
4 meaningful chance to determine whether and why they have a credible fear.

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

8 The policies in the June 6, 2025 memo do not adhere to these requirements.  
9 First, under the policy, ICE need not give immigrants *any* notice or hearing before  
10 removing them to a country that—in the State Department’s estimation—has  
11 provided “credible” “assurances” against persecution and torture. Exh. B. By  
12 depriving immigrants of any chance to challenge the State Department’s view, this  
13 policy violates “[t]he essence of due process,” “the requirement that a person in  
14 jeopardy of serious loss be given notice of the case against him and opportunity to  
15 meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

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

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

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

7 **IV. Prayer for relief**

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

- 9 1. Order Respondents to immediately release Petitioner from custody;
- 10 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.  
11 § 1231(a)(6) unless and until Respondents obtain a travel document for  
12 his removal;
- 13 3. Enjoin Respondents from removing Petitioner to any country other than  
14 Sudan unless they provide the following process, *see D.V.D. v. U.S. Dep't*  
15 *of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1453640, at \*1 (D.  
16 Mass. May 21, 2025):
  - 17 a. written notice to both Petitioner and Petitioner's counsel in a  
18 language Petitioner can understand;
  - 19 b. a meaningful opportunity, and a minimum of ten days, to raise a  
20 fear-based claim for CAT protection prior to removal;
  - 21 c. if Petitioner is found to have demonstrated "reasonable fear" of  
22 removal to the country, Respondents must move to reopen  
23 Petitioner's immigration proceedings;
  - 24 d. if Petitioner is not found to have demonstrated a "reasonable fear"  
25 of removal to the country, a meaningful opportunity, and a  
26 minimum of fifteen days, for the Petitioner to seek reopening of his  
27 immigration proceedings.
- 28 4. Order all other relief that the Court deems just and proper.

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Respectfully submitted,

Dated: April 3, 2026

*s/ Katie Hurrelbrink*

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**KATIE HURRELBRINK**  
Federal Defenders of San Diego, Inc.  
Email: [Katie\\_Hurrelbrink@fd.org](mailto:Katie_Hurrelbrink@fd.org)

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**PROOF OF SERVICE**

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

Date: 4/3/2026

/s/ Katie Hurrelbrink  
Katie Hurrelbrink