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

MOHAMMAD REZA KARIMI,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, CHRISTOPHER LAROSE,
Warden at Otay Mesa Detention Center,

Respondents.

Case No.: '26CV2539 BAS AHG

**Petition for Writ
of Habeas Corpus**

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

¹ Federal Defenders of San Diego, Inc., is filing with provisional appointment under Chief Judge Order No. 134. Mr. Karimi's financial eligibility for representation is included in a sworn statement attached to this petition.

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1 **I. Introduction**

2 Mohammad Reza Karimi came to the United States from Iran on a green
3 card. In 2016, he was ordered removed. In the decade since, the United States has
4 been unable to remove him to Iran. That the United States and Iran were unable to
5 coordinate his removal in a time of peace does not bode well in the current
6 moment, in which the two countries have more important diplomatic problems.
7 *See Associated Press, Live updates: Trump says US is extending ceasefire while*
8 *awaiting proposal from Iran* (Apr. 21, 2026).²

9 On October 19, 2025, ICE re-detained Mr. Karimi. In the six months since,
10 Mr. Karimi has not been given a chance to contest the reasons for his re-detention,
11 as required under ICE regulations. 8 C.F.R. §§ 241.13(i)(3), 241.4(l). Nor has he
12 received positive news regarding the possibility Iran will accept him for removal.
13 *See Exhibit A.*

14 This habeas petition raises the following three claims:

15 **(1) *Zadvydas* violations:** Mr. Karimi must be released under *Zadvydas*
16 because—having proved unable to remove him for the last six months, and before
17 that for the last decade—the government cannot show that there is a “significant
18 likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*,
19 533 U.S. 678, 701 (2001). *See, e.g., Bunnell v. Noem*, No. 25-cv-2259-GMN-EJY,
20 2025 WL 3707588 (D. Nev. Dec. 22, 2025); *Asfetani v. Current or Acting Field*
21 *Office*, No. 25-cv-1562-SCR, 2025 WL 3677321 (E.D. Cal. Dec. 18, 2025);
22 *Ghadesi v. Wamsley*, No. 25-cv-1984-RSM-BAT, 2025 WL 3699705 (W.D.
23 Wash. Dec. 1, 2025), *report and recommendation adopted in Ghadesi v.*
24 *Wamsley*, 2025 WL 3697208 (Dec. 19, 2025) (each granting habeas petitions or
25 preliminary injunctions ordering release under *Zadvydas* as to detained
26 noncitizens ordered removed to Iran).

27 _____
28 ² Available at <https://apnews.com/live/iran-war-israel-trump-04-21-2026> (as
updated as of 1:37 PM PDT on April 21, 2026).

(2) **Regulatory and due process violations:** Mr. Karimi must also be released because ICE's failure to follow its own regulations about providing notice and a meaningful opportunity to be heard following re-detention has violated the *Accardi* doctrine and due process. *See, e.g., Bui v. Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025) (all finding ICE regulatory violations during recent re-detentions of released noncitizens previously ordered removed).

(3) **Third-country removal due process violations.** Because it is unable to deport him to Iran, if ICE decides to pivot to a third-country removal, its nationwide policy is to not provide Mr. Muradyan with due process. ICE's current nationwide third-country removal policy is to *not* inform immigrants of their right to seek protection under the Convention Against Torture or withholding of removal statutes. It allows for last-minute designation of a third country an immigration judge has never considered. *See* Exhibit E. It therefore “contravenes Ninth Circuit law.” *Nguyen v. Scott*, 796 F. Supp. 3d 703, 728 (W.D. Wash. 2025). This Court should thus also enjoin the Respondents to adhere to basic requirements of notice and an opportunity to be heard before removing Mr. Karimi to a third country in which he could be persecuted or tortured.

II. Statement of Facts

A. Mr. Karimi comes to the United States from Iran, is ordered removed in 2016, and is re-detained by ICE in October 2025.

Mohammad Reza Karimi is from Iran. Exhibit A, Declaration of Mohamemd Reza Karimi, ¶ 2. He came to the United States on a green card around 2007. *Id.*

1 In 2016, Mr. Karimi was ordered removed to Iran. *Id.* ¶ 3; Exhibit B. He
2 was detained in ICE custody “a few months after that, and then they released
3 [him] on an order of supervision because they couldn’t deport [him] to Iran.”
4 Exhibit A ¶ 3.

5 On October 19, 2025, ICE arrested Mr. Karimi at the Orange County jail
6 after he had served a sentence there. *Id.* ¶ 4. He was brought to the downtown Los
7 Angeles ICE field office for a week. *Id.* After that, he was brought to the Otay
8 Mesa Detention Center, where he is currently held. *Id.*

9 Since October, Mr. Karimi has been left in the dark about what is going on.
10 He explains:

11 When I was transferred from county jail to ICE custody, I did not
12 get any pieces of paper from ICE. The ICE officers did not tell me
13 what was going on. I think they’re trying to deport me, but I’m not
14 sure.

14 As of today, no one has told me who my ICE officer is. No one has
15 given me a chance to fight my arrest. No one has told me what
16 changed to make it more likely that I can be deported to Iran.

16 Exhibit A ¶¶ 5–6.

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

19 The United States has not had normalized relations with Iran since the
20 Islamic Revolution of 1979. *See generally* Council on Foreign Relations, *1953–*
21 *2025: U.S. Relations With Iran.*³

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

27
28 ³ Available at <https://www.cfr.org/timeline/us-relations-iran-1953-2025>.

1 *National Security and Public Safety Threats*, June 4, 2025⁴; accord Presidential
 2 Proclamation, *Restricting and Limiting the Entry of Foreign Nationals to Protect*
 3 *the Security of the United States*, Dec. 16, 2025.⁵

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 extended their two-week ceasefire as of today. See Wall Street Journal,
 14 *Trump Extends Iran Cease-Fire Indefinitely With Peace Talks in Limbo* (Apr. 21,
 15 2026).⁶ “Whether the temporary ceasefire will lead to a lasting peace settlement
 16 remains to be seen.” Council on Foreign Relations, *The U.S. and Iran struck a*
 17 *Two-Week Truce. Now What?* (Apr. 8, 2026).⁷

21 _____
 22 ⁴ 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/)
 23 [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/)
 24 [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/)
 25 [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 ⁵ 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/).

⁶ Available at [https://www.wsj.com/livecoverage/iran-war-israel-us-strait-](https://www.wsj.com/livecoverage/iran-war-israel-us-strait-hormuz-2026?mod=hp_lead_pos1)
[hormuz-2026?mod=hp_lead_pos1](https://www.wsj.com/livecoverage/iran-war-israel-us-strait-hormuz-2026?mod=hp_lead_pos1) (updated as of 5:00 pm ET on April 21, 2026).

⁷ 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 **C. Third-country removals for noncitizens granted withholding of**
 2 **removal are rare, but as of July 2025, third-country removals**
 3 **can happen with no or little notice and result in noncitizens'**
 4 **return to their countries of origin.**

5 While it is statutorily allowable to remove an individual to a country other
 6 than their home country—a “third country”—the removal statute specifies
 7 restrictive criteria for identifying appropriate countries. *See* 8 U.S.C. § 1231(b);
 8 8 C.F.R. § 1208.16(f). Further, “foreign governments ‘routinely deny’ requests to
 9 receive people who lack a connection to the would-be receiving country.”
 10 *Puertas-Mendoza*, 2025 WL 3142089 at *3. “The reason so few people are
 11 deported to third countries is because,” while “customary international law holds
 12 that a country has a duty to accept the return of its nationals,” usually, “countries
 13 have no incentive to accept non-citizens.” American Immigration Council &
 14 National Immigrant Justice Center, *The Difference Between Asylum and*
 15 *Withholding of Removal* (Oct. 2020).⁸

16 If ICE identifies an appropriate third country of removal, the noncitizen
 17 must then have notice and an opportunity to seek relief from removal to that new
 18 country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would
 19 face persecution or other mistreatment in the country designated under
 20 § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1);
 21 withholding of removal, § 1231(b)(3)(A); [and] relief under an international
 22 agreement prohibiting torture.”). Under existing Ninth Circuit law, “last minute”
 23 designation of alternative country without meaningful opportunity to apply for
 24 protection “violate[s] a basic tenet of constitutional due process.” *Andriasian v.*
 25 *INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

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 28 ⁸ Available at https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf

1 That said, this summer, ICE began removing more immigrants it could not
 2 previously remove to third countries, which have often removed those people
 3 back to their countries of origin. ICE implemented new nationwide policies to do
 4 so. On July 9, 2025, ICE rescinded previous guidance meant to give immigrants a
 5 “‘meaningful opportunity’ to assert claims for protection under the Convention
 6 Against Torture before initiating removal to a third country.” Exhibit E (July 9,
 7 2025, ICE third-country removal guidance).

8 Now, ICE may remove an immigrant to a third country without any notice.
 9 It may do so if, in the sole view of the State Department, the United States has
 10 received “credible” “assurances” from that country that deportees will not be
 11 persecuted or tortured. *Id.* at 1. ICE deported approximately twenty people who
 12 had been granted withholding of removal or CAT protection to Equatorial Guinea
 13 in January without notifying them that they were being deported there under this
 14 provision. Third Country Deportation Watch, *Equatorial Guinea*, Refugees
 15 International & Human Rights First (Mar. 11, 2026).⁹

16 If a country fails to credibly promise not to persecute or torture releasees,
 17 ICE may remove immigrants with only 24 hours’ notice. “In exigent
 18 circumstances,” a removal may take place in six hours, “as long as the alien is
 19 provided reasonably means and opportunity to speak with an attorney prior to the
 20 removal.” Exhibit E.

21 Regardless of how much notice noncitizens receive of the third country ICE
 22 intends to deport them to, ICE “will not affirmatively ask whether the alien is
 23 afraid of being removed to the country of removal.” *Id.* (emphasis original).

24 If the noncitizen “does not affirmatively state a fear of persecution or
 25 torture if removed to the country of removal listed on the Notice of Removal
 26
 27

28 ⁹ Available at <https://www.thirdcountrydeportationwatch.org/equatorial-guinea>.

1 within 24 hours, [ICE] may proceed with removal to the country identified on the
2 notice.” *Id.* at 2.

3 Under this policy, the United States has deported dozens of noncitizens to
4 prisons and military camps in Rwanda, Eswatini, South Sudan, Ghana, and
5 Equatorial Guinea. Those who have not been returned to their home countries are
6 still detained, in countries to which they have never been, without charge.
7 Nokukhanya Musi & Gerald Imray, *10 more deportees from the US arrive in the*
8 *African nation of Eswatini*, Associated Press (Oct. 6, 2025)¹⁰; *see also* Gerald
9 Imray, *A Cuban man deported by the US to Africa is on a hunger strike in prison,*
10 *his lawyer says*, Associated Press (Oct. 23, 2025)¹¹; Frank Chothia, *Eswatini*
11 *confirms receiving \$5.1m from the US for accepting deportees*, BBC (Nov. 18,
12 2025)¹²; Nick Alexandra, *The Toll of Trump’s African Deportation Agreements*,
13 New Lines Magazine (Dec. 10, 2025).¹³ Others have been returned to their home
14 countries, even though they had received orders protecting them against their
15 return under the Convention Against Torture. *See* Third Country Deportation
16 Watch, *Ghana*, Refugees International & Human Rights First (Dec. 5, 2025);¹⁴
17 Sheriff Bojang Jr., *Equatorial Guinea sends eight of Trump’s nine deportees*
18 *home, braces for new arrivals*, The Africa Report (Jan. 16, 2026).¹⁵

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22 ¹⁰ Available at <https://apnews.com/article/eswatini-deportees-us-trump-immigration-74b2f942003a80a21b33084a4109a0d2>.

23 ¹¹ Available at <https://apnews.com/article/deported-immigration-migrants-trump-eswatini-8d8aad6dd01bf0e72de06480f3c70859>.

24 ¹² Available at <https://www.bbc.com/news/articles/cq50vjdx368o>.

25 ¹³ Available at <https://newlinesmag.com/reportage/the-toll-of-trumps-african-deportation-agreements/>.

26 ¹⁴ Available at <https://www.thirdcountrydeportationwatch.org/ghana>.

27 ¹⁵ Available at <https://www.theafricareport.com/405291/equatorial-guinea-sends-eight-of-trumps-nine-deportees-home-braces-for-new-arrivals/>.

1 **III. This Court has jurisdiction.**

2 This Court has jurisdiction to consider Mr. Karimi's claims of unlawful
3 detention under 28 U.S.C. § 2241.

4 The government's recent argument otherwise, that 8 U.S.C. § 1252(g) strips
5 this Court of jurisdiction, lacks merit. Its argument "would eliminate judicial
6 review of immigration [detainees'] claims of unlawful detention . . . inconsistent
7 with *Jennings v. Rodriguez* and the history of judicial review of the detention of
8 noncitizens under 28 U.S.C. § 2241." *Phan v. Noem*, No. 25-cv-2422-RBM, 2025
9 WL 2898977, *3 (S.D. Cal. Oct. 10, 2025) (collecting cases agreeing on this
10 jurisdictional point); *accord Sun v. Noem*, No. 25-cv-2433-CAB, 2025 WL
11 2800037, *2 (S.D. Cal. Sept. 30, 2025).

12 **IV. Claim 1: Mr. Karimi's detention violates *Zadvydas*.**

13 **A. The statute renders detention mandatory for 90 days after**
14 **removal and allowable after six months after removal only if**
15 **there is a significant likelihood of removal in the reasonably**
foreseeable future.

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

1 immigrants can find themselves trapped in detention for months, years, decades,
2 or even the rest of their lives. If federal law were understood to allow for
3 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
4 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
5 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.
6 *Id.* at 689.

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

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

19 Mr. Karimi can make all the threshold showings needed to shift the burden
20 to the government, or in the alternative, prove outright that his removal is not
21 significantly likely in the reasonably foreseeable future.

22 **B. Mr. Karimi’s six-month grace period expired in 2017, and**
23 **regardless, he has now been in custody for more than six months.**

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

1 linked to the latest of three dates, all of which relevant here are tied to when the
2 removal order is issued or becomes final. 8 U.S.C. § 1231(a)(1)(B).¹⁶

3 Mr. Karimi's removal order became final on July 1, 2016. *See* Exhibit B.
4 His *Zadvydas* grace period ended six months later, on January 1, 2017. *See, e.g.,*
5 *Tadros v. Noem*, 2025 WL 1678501, No. 25-cv-4108(EP), *2–*3.

6 Regardless, Mr. Karimi has now been detained for six months on his most
7 recent arrest by ICE, which occurred on October 19, 2025. Exhibit A ¶ 4. The
8 *Zadvydas* grace period has expired.

9 **C. Mr. Karimi's experience provides good reason to believe that he**
10 **will not likely be removed in the reasonably foreseeable future.**

11 This Court uses a burden-shifting framework to evaluate Mr. Karimi's
12 *Zadvydas* claim. At the first stage of the framework, Mr. Karimi must "provide[]
13 good reason to believe that there is no significant likelihood of removal in the
14 reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. This standard can be
15 broken down into three parts.

16 **"Good reason to believe."** The "good reason to believe" standard is a
17 relatively forgiving one. "A petitioner need not establish that there exists no
18 possibility of removal." *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
19 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does "[g]ood reason to
20 believe' . . . place a burden upon the detainee to demonstrate no reasonably
21 foreseeable, significant likelihood of removal or show that his detention is
22 indefinite; it is something less than that." *Rual v. Barr*, No. 6:20-CV-06215 EAW,
23 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401

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26 ¹⁶ 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 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
2 Petitioners need only give a “good reason”—not prove anything to a certainty.

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

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

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

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

25 Even if this Court concludes that Mr. Karimi “would *eventually* receive” a
26 travel document, he can still meet his burden by giving good reason to anticipate
27 sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D.
28 Mich. Nov. 14, 2016).

1 Mr. Karimi satisfies this standard for two reasons.

2 First, Mr. Karimi’s own experience bears this out. ICE has now had a
3 decade to deport him to Iran. Yet ICE has proved unable to remove him.

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

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

20 Thus, Mr. Karimi has met his initial burden, and the burden shifts to the
21 government. Unless the government can prove a “significant likelihood of
22 removal in the reasonably foreseeable future,” Mr. Karimi must be released.
23 *Zadvydas*, 533 U.S. at 701.

24 **D. The remedy for a *Zadvydas* violation is immediate release on**
25 **conditions set by ICE under § 1231(a)(3).**

26 As noted earlier, *Zadvydas* interpreted 8 U.S.C. § 1231(a)(6), which
27 permits ICE to detain immigrants past the removal period if certain conditions are
28 met. 533 U.S. at 698. Applying the constitutional avoidance canon, the Supreme

1 Court held that immigrants may no longer be held under 8 U.S.C. § 1231(a)(6),
2 but must be released when removal proves unforeseeable. *Id.* at 700–01.

3 Section 1231(a)(6) dictates what happens next: “An alien ordered removed
4 . . . if released, shall be subject to the terms of supervision in paragraph (3).”
5 Paragraph (3) states that “[i]f the alien does not leave or is not removed within the
6 removal period, the alien, pending removal, shall be subject to supervision under
7 regulations prescribed by the Attorney General,” including several conditions that
8 must be imposed. 8 U.S.C. § 1231(a)(3). The Attorney General has delegated
9 authority to officials within ICE. *See* 8 C.F.R. § 241.5(a).

10 Thus, an immigrant released from detention under § 1231(a)(6) as
11 interpreted in *Zadvydas* is subject to conditions set by ICE under § 1231(a)(3).

12 **V. Claim 2: ICE failed to comply with its own regulations while re-**
13 **detaining Mr. Karimi, violating his rights under applicable regulations**
14 **and due process.**

15 ICE is required to follow its own regulations. *United States ex rel. Accardi*
16 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,
17 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to
18 abide by certain internal policies is well-established.”). A court may review a re-
19 detention decision for compliance with the regulations, and “where ICE fails to
20 follow its own regulations in revoking release, the detention is unlawful and the
21 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4
(collecting cases); *accord Phan*, 2025 WL 2898977 at *5.

22 Two regulations establish the process due to someone who is re-detained in
23 immigration custody following a period of release after being ordered removed.
24 8 C.F.R. § 241.4(l) applies to all re-detentions, generally. 8 C.F.R. § 241.13(i)
25 applies as an added, overlapping framework to persons released upon good reason
26 to believe that they will not be removed in the reasonably foreseeable future, as
27 Mr. Karimi apparently was. *See Phan*, 2025 WL 2898977 at *3–*5 (explaining
28 this regulatory framework and granting a habeas petition for ICE’s failure to

1 follow these regulations for a refugee of Vietnam who entered the United States
2 before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165 at *2
3 (same as to an Iranian national).

4 These regulations permit an official to “return [the person] to custody”
5 when the person “violate[d] any of the conditions of release,” 8 C.F.R.
6 §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an appropriate official
7 “determines that there is a significant likelihood that the alien may be removed in
8 the reasonably foreseeable future,” and makes that finding “on account of
9 changed circumstances,” § 241.13(i)(2).

10 No matter the reason for re-detention, the re-detained person is entitled to
11 certain procedural protections. For one, “[u]pon revocation,’ the noncitizen ‘will
12 be notified of the reasons for revocation of his or her release.’” *Phan*, 2025 WL
13 2898977 at *3, *4 (quoting §§ 241.4(l)(1), 241.13(i)(3)). Further, the person
14 “‘will be afforded an initial informal interview promptly after his or her return’ to
15 be given ‘an opportunity to respond to the reasons for revocation stated in the
16 notification.’” *Id.*

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

22 ICE followed few to none of its regulatory prerequisites to re-detention or
23 continued detention here.

24 Mr. Karimi has not received notice of the reasons for the revocation of his
25 release; nor has he received an informal interview. §§ 241.13(i)(2); 241.4(l)(1).
26 When he was “transferred from county jail to ICE custody, [he] did not get any
27 pieces of paper from ICE.” Exhibit A ¶ 5. ICE “did not tell [him] what was going
28 on,” and “[n]o one has given [him] a chance to fight [his] arrest.” *Id.* ¶¶ 5–6. “No

one has told [him] what changed to make it more likely that [he] c[ould] be deported to Iran.” *Id.* ¶ 6.

Numerous courts have released re-detained immigrants after finding that ICE failed to comply with some or all of the applicable regulations this summer and fall. *See, e.g., Villanueva v. Tate*, ___ F. Supp. 3d ___, 2025 WL 2774610 (S.D. Tex. Sept. 26, 2025); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7–9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Liu v. Carter*, 2025 WL 1696526, *2 (D. Kan. June 17, 2025); *M.Q. v. United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025); *Bui v. Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Thai v. Noem*, No. 25-cv-2436-RBM, ECF No. 10, 12 (S.D. Cal. Oct. 17, 2025); *Constantinovici v. Bondi*, ___ F. Supp. 3d ___, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12, 17 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025).

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

VI. Claim 3: ICE must provide adequate notice and an opportunity to be heard before removing Mr. Karimi to a third country.

In addition to unlawfully detaining him, ICE's nationwide policies threaten Mr. Karimi's unlikely, but potentially abrupt, removal to an unidentified third country without adequate notice and an opportunity to be heard, should it decide to pivot from seeking his removal to Iran. These policies violate the Fifth Amendment, the Convention Against Torture, and implementing regulations.

A. Due process requires notice and an opportunity to be heard before deportation to third countries.

As noted, U.S. law enshrines mandatory protections against dangerous and life-threatening removal decisions through the withholding of removal statute and implementations of the Convention Against Torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16, 1208.16 (withholding); FARRA 2681-822 (codified as 8 U.S.C. § 1231 note; 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18 (CAT).

Further, the third country removal statute involves a “four-stage inquiry set forth in § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006 (W.D. Wash. 2019) (summarizing cases on this point); *see also Hadera v. Gonzales*, 494 F.3d 1154, 1156–59 (9th Cir. 2007) (explaining the stages). The first step is a noncitizen designates “one country to which the noncitizen wants to be removed.” *Aden*, 409 F. Supp. 3d at 1006. If the noncitizen does not designate a country, or that country does not accept them, then “the IJ may at step two designate a country of which the noncitizen is a subject, national, or citizen.” *Id.* at 1007. If “no country satisfies” that requirement, the step three allows designation and removal to a number of other countries. 8 U.S.C. § 1231(b)(2)(E). The government can proceed to the fourth stage—removal to “another country”—only if it determines it is “impracticable, inadvisable, or impossible to remove the alien to each country described” in the third stage. 8 U.S.C. § 1231(b)(2)(E)(vii).

1 When pursuing a third-country removal subject to all the above constraints,
2 the government must provide notice of the third country removal and an
3 opportunity to respond. Due process requires “written notice of the country being
4 designated” and “the statutory basis for the designation, i.e., the applicable
5 subsection of § 1231(b)(2).” *Aden*, 409 F. Supp. 3d at 1019.

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

15 If the noncitizen claims fear, measures must be taken to ensure that the
16 noncitizen can seek asylum, withholding, and relief under CAT before an
17 immigration judge in reopened removal proceedings. The amount and type of
18 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
19 circumstances, he would have a reasonable opportunity to raise and pursue his
20 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
21 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
22 F.3d 405, 408 (7th Cir. 1998)).

23 “[L]ast minute” notice of the country of removal will not suffice,
24 *Andriasian*, 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App’x 724 (9th
25 Cir. 2016). For good reason: To have a meaningful opportunity to apply for fear-
26 based protection from removal, immigrants must have time to prepare and present
27 relevant arguments and evidence to the relevant agencies: first, the asylum officer
28 within USCIS, and, if that fails, the immigration judge. Telling a person where

1 they may be sent, without giving them a chance to look into country conditions
2 and the possibility they may be deported to yet another country, does not give
3 them a meaningful chance to determine whether and why they have a credible
4 fear.

5 **B. The July 6, 2025 memo’s removal policies violate the Fifth**
6 **Amendment, 8 U.S.C. § 1231, the Convention Against Torture,**
7 **and implementing regulations.**

8 The policies in the currently effective July 6, 2025, memo do not adhere to
9 these requirements. The operative memo “contravenes Ninth Circuit law.”
10 *Nguyen*, 796 F. Supp. 3d at 728 (explaining how the July 9, 2025 ICE memo
11 contravenes Ninth Circuit law on the process due to noncitizens in detail); *see*
12 *also Azzo v. Noem*, No. 25-cv-3122-RBM-BJW, 2025 WL 3535208, *6–*8 (S.D.
Cal. Dec. 10, 2025) (same).

13 Most critically, current policy does not require ICE to notify immigrants
14 that they have a right to apply for withholding of deportation from the new third
15 country to which they will be deported. Exhibit E (ICE ““will not affirmatively
16 ask whether the alien is afraid of being removed to the country of removal”).

17 This is in direct conflict with controlling Ninth Circuit law. “Failing to
18 notify individuals who are subject to deportation that they have the right to apply
19 . . . for withholding of deportation to the country to which they will be deported
20 violates both INS regulations and the constitutional right to due process,”
21 *Adriasian*, 180 F.3d at 1041.

22 Next, under the policy, ICE need not give immigrants *any* notice or *any*
23 opportunity to be heard before removing them to a country that—in the State
24 Department’s estimation—has provided “credible” “assurances” against
25 persecution and torture. Exhibit E. By depriving immigrants of any chance to
26 challenge the State Department’s view, this policy violates “[t]he essence of due
27 process,” “the requirement that a person in jeopardy of serious loss be given
28 notice of the case against him and opportunity to meet it.” *Mathews v. Eldridge*,

1 424 U.S. 319, 348 (1976) (cleaned up).

2 Then, even when the government has obtained no credible assurances
3 against persecution and torture, the government can still remove the person with
4 between 6 and 24 hours' notice, depending on the circumstances. *See* Exhibit E.
5 Practically speaking, there is not nearly enough time for a detained person to
6 assess their risk in the third country and develop evidence to support any credible
7 fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may
8 know nothing about a third country, like Eswatini or South Sudan, when they are
9 scheduled for removal there.

10 If given the opportunity to investigate conditions, immigrants may find
11 credible reasons to fear persecution or torture—like keeping deportees indefinitely
12 and without charge in solitary confinement, or extreme instability raising a high
13 likelihood of death—in many of the third countries that have agreed to removal of
14 thus far.

15 Immigrants may also have ample reason to challenge DHS's determination
16 under § 1231(b)(2)(E)(vii) that each other country with which the immigrant has
17 connections is “impracticable, inadvisable, or impossible to remove the alien to.”
18 DHS must consider whether to remove him there before proceeding to the final
19 step of the third-country removal statute. *See Hadera*, 494 F.3d at 1156–59
20 (explaining this process).

21 Due process requires an adequate chance to identify and raise these threats
22 to health and life. Because “[f]ailing to notify individuals who are subject to
23 deportation that they have the right to apply . . . for withholding of deportation to
24 the country to which they will be deported violates both INS regulations and the
25 constitutional right to due process,” *Adriasian*, 180 F.3d at 1041, this Court must
26 prohibit the government from removing Mr. Karimi without these due process
27 safeguards.
28

VII. This Court must hold an evidentiary hearing on any disputed facts.

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

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

VIII. Prayer for relief.

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

1. Order and enjoin Respondents to immediately release Petitioner from custody;
2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C. § 1231(a)(6) unless and until Respondents obtain a travel document for his removal;
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;
4. Enjoin Respondents from removing Petitioner unless they provide the following process:
 - a. written notice to both Petitioner and Petitioner's counsel in a language Petitioner can understand;
 - b. a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection prior to removal;
 - c. if Petitioner is found to have demonstrated "reasonable fear" of removal to the country, Respondents must move to reopen Petitioner's immigration proceedings; and
 - d. if Petitioner is not found to have demonstrated a "reasonable fear" of removal to the country, a meaningful opportunity, and a minimum of fifteen days, for the Petitioner to seek reopening of his immigration proceedings; and