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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SAMIR TALEBI,

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.: '26CV2642 JAO MSB

Petition for Writ of Habeas Corpus

[Civil Immigration Habeas Petition Under 28 U.S.C. § 2241]

I. Introduction

Mr. Talebi is now less than 10 days shy of being detained for six months post-final order of removal to Iran.

On February 19, 2026, when he had been detained for a little over three months, District Judge Bashant denied, without prejudice, Mr. Talebi's habeas corpus petition. *Talebi v. Noem*, Case No. 26-cv-00165-BAS-JLB, ECF No. 13. At the time of the denial, Mr. Talebi had been detained for a little over three months and the government had already previously obtained travel documents to remove Mr. Talebi to Iran. *Id.* Judge Bashant indicated that Mr. Talebi could refile the petition if he remained in custody for an additional three months. *Id.* at 3.

Following Judge Bashant's order, on February 28, the United States and Isreal launched strikes against Iran beginning the current war. *See Iran War Timeline: Key Moments and Attacks*, NY Times, https://www.nytimes.com/article/iran-war-trump-us-oil-hormuz-key-dates-events.html (April 21, 2026). The war is ongoing. Since then, district courts have granted release under *Zadvydas* because of the uncertainty of removal during the war. *See Minassi, v. Noem*, No. 5:26-CV-00723-RGK-AYP, 2026 WL 923289, at *5 (C.D. Cal. Apr. 1, 2026); *Anjomshoa v. Oldham Country Jail*, Case No. 3:26-CV-020-CHB, 2026 WL 1034403, at *4 (W.D. Ky. Apr. 16, 2026); *Talebi v. LaRose*, Case No. 26-cv-01573-BAS-AHG, ECF 10 (April 1, 2026).

Accordingly, Mr. Talebi now requests immediate release because by the time the Court will decide this petition, he will be detained for six months post final order and because of the changed circumstances of the war with Iran, there is no significantly likely that he will be removed in the reasonably foreseeable future.

II. Statement of Facts

A. The government has not been able to remove Mr. Talebi during the war with Iran.

Mr. Talebi references the facts that were previously filed in *Talebi v. Noem*, Case No. 26-cv-00165-BAS-JLB, ECF No. 13 (Feb. 19, 2026). As noted by Judge Bashant,

> Petitioner was born in Iran and came to the United States to request asylum. (Talebi Decl. ¶ 1.) An Immigration Judge denied Petitioner's asylum claim, and he was ordered removed to Iran on November 5, 2025. (Id. ¶ 2.) ERO has obtained a travel document for Petitioner's removal to Iran, and his removal flight was scheduled for January 25, 2026. (DO Solares Decl. ¶ 9.) Unfortunately, the removal flight had to be canceled because of a medical emergency. (Id.) ICE is now waiting for Petitioner to be medically cleared, and "[o]nce Petitioner's medical issues are addressed, his removal can be effected promptly." (Id. ¶ 14.)

Talebi, No. 26-cv-00165-BAS-JLB, ECF No. 13 at 2.

As of the filing of this renewed petition, Mr. Talebi remains detained at the Otay Mesa Detention Center. *See* Exhibit A, Declaration of Zandra Lopez.

B. It is extremely challenging to deport people to Iran.

In late February, the United States launched strikes against Iran under Operation Epic Fury. *See* U.S. Department of War, *Operation Epic Fury;*[1] *See also,* U.S. Department of War, *This Week in DOW: U.S. Delivers 'Devastating Combat Power' to Iran*, March 20, 2026.[2]

Even before the war, the United States did not have normalized relations with Iran since the Islamic Revolution of 1979. *See generally* Council on Foreign Relations, *1953–2025: U.S. Relations With Iran.*[3] It currently lacks diplomatic

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[1] Available at: https://www.war.gov/Spotlights/Operation-Epic-Fury/

[2] https://www.war.gov/News/News-Stories/Article/Article/4440215/this-week-in-dow-us-delivers-devastating-combat-power-to-iran/

[3] Available at https://www.cfr.org/timeline/us-relations-iran-1953-2025.

and consular relations. U.S. Department of State, Bureau of Consular Affairs, *Iran Travel Advisory*, March 31, 2025.[4]

As President Trump found last year when banning the entry of Iranian nationals into the United States, Iran "has historically failed to accept back its removable nationals." Presidential Proclamation, *Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats*, June 4, 2025[5]; *accord* Presidential Proclamation, *Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States*, Dec. 16, 2025.[6] The Pentagon has not given a "definitive time frame" for the end of the Iran war.[7]

Moreover, Iran has long been among the top fifteen most uncooperative countries the United States faces when seeking to repatriate immigrants it has ordered deported, alongside other countries like Cuba. *See* Office of Inspector General, Department of Homeland Security, *ICE Faces Barriers in Timely Repatriation of Detained Aliens*, (March 11, 2019).[8]

"As such, it is unlikely that anyone will be removed to a country deemed 'uncooperative,' with which the United States has no diplomatic relations and is

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[4] Available at https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/iran-travel-advisory.html

[5] Available at 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/.

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

[7] Rudi Maxwell et al., *Iran war updates: No 'definitive time frame' to end Iran war, Pentagon to seek funds from Congress—as it happened*, ABC NEWS, (March 24, 2026), https://www.abc.net.au/news/2026-03-19/iran-israel-us-war-live-updates-march-19/106471026.

[8] Available at: https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf

currently at war." *Minassi, v. Noem*, No. 5:26-CV-00723-RGK-AYP, 2026 WL 923289, at *5 (C.D. Cal. Apr. 1, 2026).

III. The government is carrying out deportations to third countries without providing sufficient notice and opportunity to be heard.

If ICE cannot successfully remove Mr. Talebi to Iran, ICE may attempt to remove him to a third country. If so, he is in grave danger of removal without due process.

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

The Administration has reportedly negotiated with countries to have many of these deportees imprisoned in prisons, camps, or other facilities. The government paid El Salvador about $5 million to imprison more than 200 deported Venezuelans in a maximum-security prison notorious for gross human rights abuses, known as CECOT. *See id.* In February, Panama and Costa Rica took in hundreds of deportees from countries in Africa and Central Asia and imprisoned them in hotels, a jungle camp, and a detention center. *Id.*; Vanessa Buschschluter, *Costa Rican court orders release of migrants deported from U.S.*, BBC (Jun. 25, 2025). On July 4, 2025, ICE deported eight men, including one pre-1995 Vietnamese refugee, to South Sudan. *See* Wong, *supra*. On July 15, ICE deported five men to the tiny African nation of Eswatini, including one man from

Vietnam, where they are reportedly being held in solitary confinement. Gerald Imray, *3 Deported by US held in African Prison Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2, 2025). Many of these countries are known for human rights abuses or instability. For instance, conditions in South Sudan are so extreme that the U.S. State Department website warns Americans not to travel there, and if they do, to prepare their will, make funeral arrangements, and appoint a hostage-taker negotiator first. *See* Wong, *supra*.

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

Under the new guidance, ICE may remove any immigrant to a third country "without the need for further procedures," as long as—in the view of the State Department—the United States has received "credible" "assurances" from that

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[9] Though the Supreme Court's order was unreasoned, the dissent noted that the government had sought a stay based on procedural arguments applicable only to class actions. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025) (Sotomayor, J., dissenting). Thus, "even if the Government [was] correct that 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. Talebi. *Id.* Thus, the Supreme Court's decision does not override courts' authority to grant individual injunctive relief. *See Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *20–23 (W.D. Wash. Aug. 21, 2025).

country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails to credibly promise not to persecute or torture releasees, ICE may still remove immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours' notice. But "[i]n exigent circumstances," a removal may take place in as little as six hours, "as long as the alien is provided reasonably means and opportunity to speak with an attorney prior to the removal." *Id.*

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

CLAIMS FOR RELIEF

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

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

A. Legal background

Mr. Talebi's indefinite detention violates the statute authorizing detention, 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered a problem affecting people like Mr. Talebi. Federal law requires ICE to detain an immigrant during the "removal period," which typically spans the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes discretionary—ICE may detain the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to excessive detention, as removal happens within days or weeks. But some detainees cannot be removed quickly. Perhaps their removal "simply require[s] more time for processing," or they are "ordered removed to countries with whom the United States does not have a repatriation agreement," or their countries "refuse to take them," or they are "effectively 'stateless' because of their race and/or place of birth." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, 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 threat." *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

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

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

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

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

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

As an initial matter, the six-month grace period will be done by the time this petition is decided. *See* Exhibit C, EOIR Automated Case Information. The *Zadvydas* grace period lasts for "*six months* after a final order of removal—that is, *three months* after the statutory removal period has ended." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Talebi was ordered removed on November 5, 2025. Exh. C. Accordingly, his 90-day removal period began then. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period will thus expire on May 5, 2026. The threshold requirement will therefore be met at least by the time this Court decides the case.

B. There is good reason to believe that there is no significant likelihood of Mr. Talebi removal in the reasonably foreseeable future.

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

"Good reason to believe." The "good reason to believe" standard is a relatively forgiving one. "A petitioner need not establish that there exists no

possibility of removal." *Freeman v. Watkins*, No. CV B:09-160, 2009 WL 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does "'[g]ood reason to believe' . . . place a burden upon the detainee to demonstrate no reasonably foreseeable, significant likelihood of removal or show that his detention is indefinite; it is something less than that." *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says: Petitioners need only give a "good reason"—not prove anything to a certainty.

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

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

93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Talebi "would *eventually* receive" a travel document, he can still meet his burden by giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

Mr. Talebi has good reason to doubt his likelihood of removal in the reasonably foreseeable future. ICE appears to have made no progress in removing him in nearly six months. And there is a good explanation for the hold up: First, the United States is currently at war with Iran. There are no flights operating out of Iran. https://ir.usembassy.gov/security-alert-iran-march-20-2026-update/. And there is no indication as to when the war will end.[10]

Second, even before the war, the historical experiences of Iranian nationals in the United States generally confirm that Mr. Talebi will not be removed in the reasonably foreseeable future. President Trump concluded last year that Iran "has historically failed to accept back its removable nationals." Presidential Proclamation, June 4, 2025, *supra* page 4 n.5.

Mr. Talebi is thus similarly situated to the Iranian national ordered released since the commencement of the war. *See, e.g., Minassi v. Noem*, No. 5:26-CV-00723-RGK-AYP, 2026 WL 923289, at *5 (C.D. Cal. Apr. 1, 2026) (finding it "unlikely that anyone will be removed to a country deemed 'uncooperative,' with which the United States has no diplomatic relations and is currently at war.") ; *Hussain v. US Dept. of Homeland Security*, No. 1:25-CV-01916 SEC P, 2026 WL 1109644, at *3, n. 1 (W.D. La. Mar. 16, 2026) (recommending granting habeas because "disrupt[ion] by war and similar events, including the actual, current conditions in proposed removal countries and the status of our diplomatic relations with such countries" is relevant to the lack of reasonable foreseeability of removal).

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[10] *Iran War Timeline: Key Moments and Attacks*, New York Times, https://www.nytimes.com/article/iran-war-trump-us-oil-hormuz-key-dates-events.html (April 21, 2026)

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

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

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

A. Legal background

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

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

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

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

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

demonstrated "reasonable fear"); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice and time for a respondent to file a motion to reopen and seek relief).

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

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

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

Second, even when the government has obtained no credible assurances against persecution and torture, the government can still remove the person with between 6 and 24 hours' notice, depending on the circumstances. Exh. B. Practically speaking, there is not nearly enough time for a detained person to assess their risk in the third country and martial evidence to support any credible fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may know nothing about a third country, like Eswatini or South Sudan, when they are scheduled for removal there. Yet if given the opportunity to investigate conditions, immigrants would find credible reasons to fear persecution or torture—like patterns

of keeping deportees indefinitely and without charge in solitary confinement or extreme instability raising a high likelihood of death—in many of the third countries that have agreed to removal thus far. Due process requires an adequate chance to identify and raise these threats to health and life. This Court must prohibit the government from removing Mr. Talebi without these due process safeguards.

III. 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. Talebi hereby requests such a hearing on any material, disputed facts.

IV. Prayer for relief

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

1. Order 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 removing Petitioner to any country other than Sudan unless they provide the following process, *see D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025):
    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;

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.

4. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: April 26, 206

s/ Zandra L. Lopez

Zandra L. Lopez
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Talebi
Email: Zandra_lopez@fd.org

Kkkk

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: 4/26/2026

/s/ *Zandra L. Lopez*
Zandra L. Lopez

Exhibit A

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SAMIR TALEBI,

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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.

Civil Case No.:

Declaration of Zandra L. Lopez

I, Zandra L. Lopez, declare:

1. I am an attorney duly licensed to practice law in the State of California, in the United States District Court for the Southern District of California, and in the United States Court of Appeals for the Ninth Circuit.

2. I am an employee of Federal Defenders of San Diego, Inc., and in such capacity was previously appointed by the United States District Court to represent Samir Talebi in *Talebi v. Noem*, Case No. 26-cv-00165-BAS-JLB.

3. Following the denial of the habeas in *Talebi v. Noem*, Case No. 26-cv-00165-BAS-JLB, I was not able to find Mr. Talebi under the ICE immigrant locator website. I believed that he had been removed from the country or another facility.

4. A few days ago, Mr. Talebi contacted my office and I was able to speak to him. He informed me that he remains detained at Otay Mesa Detention Center and that he would like to re-file his habeas petition because of the passage of time and continued detention.

5. On today's date, I did another search for Mr. Talebi on the immigrant locator but the website indicates that there was zero matching records with his A# and country of origin as Iran.

6. On today's date, I called Otay Mesa Detention Center and the officer at that facility confirmed for me that Samir Talebi in fact remains detained at Otay Mesa Detention Center to this date.

I declare under penalty of perjury that the foregoing is true and correct, executed on this date, April 24, 2026, in San Diego, California.

/s/ Zandra L. Lopez
Zandra L. Lopez
Declarant

Exhibit B

PLAINTIFFS' EXHIBIT NO. 2
CASE NO. PX 25-951
IDENTIFICATION: JUL 10 2025
ADMITTED: JUL 10 2025

To All ICE Employees
July 9, 2025

Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)

On June 23, 2025, the U.S. Supreme Court granted the Government's application to stay the district court's nationwide preliminary injunction in *D.V.D. v. Department of Homeland Security*, No. 25-10676, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), which required certain procedures related to providing a "meaningful opportunity" to assert claims for protection under the Convention Against Torture (CAT) before initiating removal to a third country. Accordingly, all previous guidance implementing the district court's preliminary injunction related the third country removals issued in *D.V.D.* is hereby rescinded. Absent additional action by the Supreme Court, the stay will remain in place until any writ of certiorari is denied or a judgment following any decision issues.

Effective immediately, when seeking to remove an alien with a final order of removal—other than an expedited removal order under section 235(b) of the Immigration and Nationality Act (INA)—to an alternative country as identified in section 241(b)(1)(C) of the INA, ICE must adhere to Secretary of Homeland Security Kristi Noem's March 30, 2025 memorandum, *Guidance Regarding Third Country Removals*, as detailed below. A "third country" or "alternative country" refers to a country other than that specifically referenced in the order of removal.

If the United States has received diplomatic assurances from the country of removal that aliens removed from the United States will not be persecuted or tortured, and if the Department of State believes those assurances to be credible, the alien may be removed without the need for further procedures. ICE will seek written confirmation from the Department of State that such diplomatic assurances were received and determined to be credible. HSI and ERO will be made aware of any such assurances. In all other cases, ICE must comply with the following procedures:

- An ERO officer will serve on the alien the attached Notice of Removal. The notice includes the intended country of removal and will be read to the alien in a language he or she understands.
- ERO will not affirmatively ask whether the alien is afraid of being removed to the country of removal.
- ERO will generally wait at least 24 hours following service of the Notice of Removal before effectuating removal. In exigent circumstances, ERO may execute a removal order six (6) or more hours after service of the Notice of Removal as long as the alien is provided reasonable means and opportunity to speak with an attorney prior to removal.
    - Any determination to execute a removal order under exigent circumstances less than 24 hours following service of the Notice of Removal must be approved by the DHS General Counsel, or the Principal Legal Advisor where the DHS General Counsel is not available.

- If the alien does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the Notice of Removal within 24 hours, ERO may proceed with removal to the country identified on the notice. ERO should check all systems for motions as close in time as possible to removal.
- If the alien does affirmatively state a fear if removed to the country of removal listed on the Notice of Removal, ERO will refer the case to U.S. Citizenship and Immigration Services (USCIS) for a screening for eligibility for protection under section 241(b)(3) of the INA and the Convention Against Torture (CAT). USCIS will generally screen the alien within 24 hours of referral.
    - USCIS will determine whether the alien would more likely than not be persecuted on a statutorily protected ground or tortured in the country of removal.
    - If USCIS determines that the alien has not met this standard, the alien will be removed.
    - If USCIS determines that the alien has met this standard and the alien was not previously in proceedings before the immigration court, USCIS will refer the matter to the immigration court for further proceedings. In cases where the alien was previously in proceedings before the immigration court, USCIS will notify the referring immigration officer of its finding, and the immigration officer will inform ICE. In such cases, ERO will alert their local Office of the Principal Legal Advisor (OPLA) Field Location to file a motion to reopen with the immigration court or the Board of Immigration Appeals, as appropriate, for further proceedings for the sole purpose of determining eligibility for protection under section 241(b)(3) of the INA and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.

Notably, the Supreme Court's stay of removal does not alter any decisions issued by any other courts as to individual aliens regarding the process that must be provided before removing that alien to a third country.

Please direct any questions about this guidance to your OPLA field location.

Thank you for all you continue to do for the agency.

Todd M. Lyons
Acting Director
U.S. Immigration and Customs Enforcement

Attachments:

- U.S. Supreme Court Order
- Secretary Noem's Memorandum
- Notice of Removal