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

UGUR HULAGU,

Petitioner,

v.

JEREMY CASEY, Warden,

Respondents.

CIVIL CASE NO.: 26-cv-2699-RBM

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

INTRODUCTION

On December 1, 2025, Ugur Hulagu received withholding of removal to his native country of Turkey. ICE continued to detain him for nearly six months, purportedly to remove him to a third country. But ICE has made no progress in doing so. It does not appear that ICE has even asked a third country to take him. Because “there is no significant likelihood of removal in the reasonably foreseeable future,” Mr. Hulagu’s detention is no longer statutorily authorized, and this Court must order his immediate release. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

STATEMENT OF FACTS

I. Mr. Hulagu received withholding of removal, and there is no evidence of any progress in sending him to a third country.

Mr. Hulagu was born in Türkiye  Exh. A at ¶ 1. He entered the United States on October 8, 2023 and immediately turned himself in. *Id.* Two days after, I was released. *Id.* Mr. Hulagu proceeded to follow all conditions of release, including timely filing his asylum application and following the law. *Id.* at ¶ 2. Yet CBP redetained him at an immigration checkpoint on September 7, 2025. *Id.* at ¶ 3.

On December 1, 2025, Mr. Hulagu lost his asylum case but won withholding of removal to Türkiye. *Id.* Since then, ICE has talked to him only one time about third country removal. *Id.* at ¶ 4. ICE asked him which third country I wanted to go to. He told them that he does not have any connections to any third country. *Id.* He does not have any family members in third countries, but he has cousins here in this country. *Id.* ICE said that if he didn’t give them a name, they would choose a third country for him. *Id.* Since then, he has met with ICE four or five more times, but ICE has never brought up third-country removal again. *Id.*

ICE has never identified any specific third country that might accept him. *Id.* at ¶ 5. ICE has never asked him to fill out any paperwork to request removal to

1 a third country. *Id.* ICE has never asked him to talk to the consulate of any third
2 country. *Id.* He has no reason to think that ICE has even asked a third country to
3 take me. *Id.*

4 Furthermore, he knows of no reason why a third country would accept him.
5 *Id.* at ¶ 6. He and his parents were all born in Türkiye, and they are not citizens of
6 any other country. *Id.* And he does not have permission to enter any third country.
7 *Id.*¹

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

10 Though it is highly unlikely that ICE can remove Mr. Hulagu to a third
11 country in the reasonably foreseeable future, something could unexpectedly
12 change to make third-country removal plausible. If so, Mr. Hulagu would be in
13 grave danger of removal without due 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 rights abuses, known as CECOT. *See id.* In February, Panama and Costa Rica
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28 ¹ Mr. Hulagu qualifies for Federal Defenders' services. *Id.* at ¶ 7.

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

14 On June 23 and July 3, 2025, the Supreme Court issued a stay of a national
15 class-wide preliminary injunction issued in *D.V.D. v. U.S. Department of*
16 *Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968, at *1, 3 (D.
17 Mass. Apr. 18, 2025), which required ICE to follow statutory and constitutional
18 requirements before removing an individual to a third country. *U.S. Dep't of*
19 *Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (mem.); *id.*, No. 24A1153, 2025
20 WL 1832186 (U.S. July 3, 2025).² On July 9, 2025, ICE rescinded previous
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22
23 ² Though the Supreme Court's order was unreasoned, the dissent noted that the
24 government had sought a stay based on procedural arguments applicable only to
25 class actions. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025)
26 (Sotomayor, J., dissenting). Thus, "even if the Government [was] correct that
27 classwide relief was impermissible" in *D.V.D.*, Respondents still "remain[]
28 obligated to comply with orders enjoining [their] conduct with respect to individual
plaintiffs" like Mr. Hulagu. *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).

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 eligibility for [withholding of removal protection] and CAT” or designate another
27 country for removal. *Id.*
28

CLAIMS FOR RELIEF

This Court should grant this petition and order Mr. Hulagu'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. Hulagu's detention violates *Zadvydas* and 8 U.S.C. § 1231.

A. Legal background

Mr. Hulagu'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. Hulagu. 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.

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

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

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

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

16 As an initial matter, the six-month grace period will end by the time this
17 Court decides the petition. The *Zadvydas* grace period lasts for “*six months* after a
18 final order of removal—that is, *three months* after the statutory removal period
19 has ended.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001).
20 Here, Mr. Hulagu was ordered removed on December 1, 2025. Exh. A at ¶ 3.
21 Accordingly, his 90-day removal period began then. 8 U.S.C. § 1231(a)(1)(B).
22 The *Zadvydas* grace period will thus expire six months after the removal period
23 began, on June 1, 2026. The threshold requirement will therefore be met when
24 this Court decides the case. And even if the threshold requirement were not met,
25 Mr. Hulagu’s evidence is strong enough to rebut the presumption that detention
26 remains reasonable.³

27
28 ³ For support for the idea that immigrants can rebut the presumption of

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

4 Because the six-month grace period will have passed, this Court must
5 evaluate Mr. Hulagu's *Zadvydas* claim using the burden-shifting framework. At
6 the first stage of the framework, there must be "good reason to believe that there
7 is no significant likelihood of removal in the reasonably foreseeable future."
8 *Zadvydas*, 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
20
21 reasonableness after three months, especially when they have withholding of
22 removal, see the following: *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (C.D.
23 Cal. 2018); see also *Cruz Medina v. Noem*, No. 25-CV-1768-ABA, 2025 WL
24 2306274, at *7 n.5 (D. Md. Aug. 11, 2025); *Munoz-Saucedo v. Pittman*, 789 F.
25 Supp. 3d 387, 397 (D.N.J. 2025); *Zavvar v. Scott*, No. CV 25-2104-TDC, 2025 WL
26 2592543, at *5 (D. Md. Sept. 8, 2025); *Sweid v. Cantu*, No. CV-25-03590-PHX-
27 DWL (CDB), 2025 WL 3033655, at *3 (D. Ariz. Oct. 30, 2025); *Puertas Mendoza*
28 *v. Bondi*, No. SA-25-CA-00890-XR, 2025 WL 3142089, at *2 (W.D. Tex. Oct. 22,
2025); *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 641 n.6 (D. Mass. 2018); *Ali v.*
29 *Dep't of Homeland Sec.*, 451 F. Supp. 3d 703, 707 (S.D. Tex. 2020); *Villanueva v.*
30 *Tate*, No. CV H-25-3364, 2025 WL 2774610, at *9 (S.D. Tex. Sept. 26, 2025);
31 *Douglas v. Baker*, No. 25-CV-2243-ABA, 2025 WL 2687354, at *3 (D. Md. Sept.
32 19, 2025); *Jamal v. Sessions*, No. 5:18-06015-CV-RK, 2018 WL 1440609, at *2
33 (W.D. Mo. Mar. 22, 2018); *Cesar v. Achim*, 542 F. Supp. 2d 897, 902 (E.D. Wis.
34 2008).

1 **“No significant likelihood of removal.”** This component focuses on
2 whether Mr. Hulagu will likely be removed: Continued detention is permissible
3 only if it is “significant[ly] like[ly]” that ICE will be able to remove him.
4 *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of
5 untapped possibilities, but also [the] probability of *success* in such possibilities.”
6 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis
7 added). In other words, even if “there remains *some* possibility of removal,” a
8 petitioner can still meet its burden if there is good reason to believe that
9 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
10 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

11 **“In the reasonably foreseeable future.”** This component of the test
12 focuses on when Mr. Hulagu will likely be removed: Continued detention is
13 permissible only if removal is likely to happen “in the reasonably foreseeable
14 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
15 removal efforts. If the Court has “no idea of when it might reasonably expect
16 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
17 is likely to occur—or even that it might occur—in the reasonably foreseeable
18 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
19 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
20 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d
21 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Hulagu
22 “would *eventually* receive” a travel document, he can still meet his burden by
23 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
24 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

25 Mr. Hulagu has very good reason to doubt his removal. ICE has made no
26 progress whatsoever in removing him, despite having over five months to do so.
27 And there is an obvious explanation for ICE’s inability to remove him: The IJ’s
28 order prohibits Mr. Hulagu’s removal to his home country of Türkiye, “which is

1 the only country to which he has a claim to citizenship or legal immigration status.”
2 *Villanueva*, 2025 WL 2774610, at *10. “This substantially increases the difficulty
3 of removing him.” *Munoz-Saucedo*, 789 F. Supp. 3d at 398.

4 That’s because “alternative-country removal is rare.” *Johnson v. Guzman-*
5 *Chavez*, 594 U.S. 523, 537 (2021). Between 2020 and 2023, data apparently show
6 that “ICE removed . . . only *five* non-citizens granted withholding or CAT relief to
7 alternative countries.” *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398 (D.N.J.
8 2025) (emphasis original). In fiscal year 2017, there were at most 21 people of the
9 thousands with withholding of removal deported to *any* country; that number
10 includes dual citizens who only received withholding from one of their two other
11 countries of origin. See American Immigration Council & National Immigrant
12 Justice Center, *The Difference Between Asylum and Withholding of Removal*, 7
13 (Oct. 2020)⁴ (cited in *Guzman-Chavez*, 594 U.S. at 537). That means that “less than
14 two percent of those granted withholding of removal were deported to a third
15 country.” *Puertas-Mendoza*, 2025 WL 3142089 at *3 (citing American
16 Immigration Council & National Immigrant Justice Center, *supra*).

17 “[T]hat is not simply a matter of United States policy—foreign governments
18 ‘routinely deny’ requests to receive people who lack a connection to the would-be
19 receiving country.” *Puertas-Mendoza*, 2025 WL 3142089 at *3. “The reason so few
20 people are deported to third countries is because,” while “customary international
21 law holds that a country has a duty to accept the return of its nationals,” usually,
22 “countries have no incentive to accept non-citizens.” American Immigration
23 Council & National Immigrant Justice Center, *supra*, at 7.

24 In Mr. Hulagu’s case in particular, he has no connections to any other country
25 that might make his removal easier, and ICE does not appear to have made any
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27 ⁴Available at [https://www.americanimmigrationcouncil.org/wp-](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf)
28 [content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_r](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf)
[emoval.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf)

1 effort to remove him to a third country. Exh. A at ¶¶ 5–6.

2 Because third country removal is exceedingly rare, ICE has made no progress
3 in removing Mr. Hulagu to one for nearly six months, and there is no reason to
4 think that that will change, Mr. Hulagu has met his initial burden. Thus, unless the
5 government can prove a “significant likelihood of removal in the reasonably
6 foreseeable future,” Mr. Hulagu must be released. *Zadvydas*, 533 U.S. at 701.

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

9 There is therefore no current likelihood that Mr. Hulagu will be removed to
10 a third country. But ICE is trying to do just that, and in this rapidly evolving removal
11 landscape, something unforeseen could suddenly change to make that feasible.
12 ICE’s “credible threat of enforcement” of this third-country removal plan is
13 sufficient to make this claim justiciable, even ICE does not have any current
14 feasible plan to remove Mr. Hulagu to a third country. *See Susan B. Anthony List*
15 *v. Driehaus*, 573 U.S. 149, 156–57, 161 (2014) (finding standing, even though the
16 politician seeking enforcement of an unconstitutional law was no longer running
17 for office). And if ICE did suddenly prove able to remove Mr. Hulagu to a third
18 country, it would do so under a policy that violates the Fifth Amendment, the
19 Convention Against Torture, and implementing regulations.

20 **A. Legal background**

21 U.S. law enshrines protections against dangerous and life-threatening
22 removal decisions. By statute, the government is prohibited from removing an
23 immigrant to any third country where they may be persecuted or tortured, a form
24 of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The
25 government “may not remove [a noncitizen] to a country if the Attorney General
26 decides that the [noncitizen’s] life or freedom would be threatened in that country
27 because of the [noncitizen’s] race, religion, nationality, membership in a particular
28

1 social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16.
2 Withholding of removal is a mandatory protection.

3 Similarly, Congress codified protections enshrined in the CAT prohibiting
4 the government from removing a person to a country where they would be tortured.
5 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of
6 the United States not to expel, extradite, or otherwise effect the involuntary return
7 of any person to a country in which there are substantial grounds for believing the
8 person would be in danger of being subjected to torture, regardless of whether the
9 person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.*
10 §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

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

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

27 If the noncitizen claims fear, measures must be taken to ensure that the
28 noncitizen can seek asylum, withholding, and relief under CAT before an

1 immigration judge in reopened removal proceedings. The amount and type of
2 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
3 circumstances, he would have a reasonable opportunity to raise and pursue his
4 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
5 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
6 F.3d 405, 408 (7th Cir. 1998)); cf. *D.V.D.*, 2025 WL 1453640, at *1 (requiring the
7 government to move to reopen the noncitizen’s immigration proceedings if the
8 individual demonstrates “reasonable fear” and to provide “a meaningful
9 opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening
10 of their immigration proceedings” if the noncitizen is found to not have
11 demonstrated “reasonable fear”); *Aden*, 409 F. Supp. 3d at 1019 (requiring notice
12 and time for a respondent to file a motion to reopen and seek relief).

13 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
14 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
15 for good reason: To have a meaningful opportunity to apply for fear-based
16 protection from removal, immigrants must have time to prepare and present
17 relevant arguments and evidence. Merely telling a person where they may be sent,
18 without giving them a chance to look into country conditions, does not give them a
19 meaningful chance to determine whether and why they have a credible fear.

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

23 The policies in the June 6, 2025 memo do not adhere to these requirements.
24 First, under the policy, ICE need not give immigrants *any* notice or hearing before
25 removing them to a country that—in the State Department’s estimation—has
26 provided “credible” “assurances” against persecution and torture. Exh. B. By
27 depriving immigrants of any chance to challenge the State Department’s view, this
28 policy violates “[t]he essence of due process,” “the requirement that a person in

1 jeopardy of serious loss be given notice of the case against him and opportunity to
2 meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

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

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

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

21 **IV. Prayer for relief**

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

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

1 3. Enjoin Respondents from removing Petitioner unless they provide the
2 following process, *see D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV
3 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025):

- 4 a. written notice to both Petitioner and Petitioner's counsel in a
5 language Petitioner can understand;
6 b. a meaningful opportunity, and a minimum of ten days, to raise a
7 fear-based claim for CAT protection prior to removal;
8 c. if Petitioner is found to have demonstrated "reasonable fear" of
9 removal to the country, Respondents must move to reopen
10 Petitioner's immigration proceedings;
11 d. if Petitioner is not found to have demonstrated a "reasonable fear"
12 of removal to the country, a meaningful opportunity, and a
13 minimum of fifteen days, for the Petitioner to seek reopening of his
14 immigration proceedings.

15 4. Order all other relief that the Court deems just and proper.
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17 Respectfully submitted,
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19 Dated: May 4, 2026

s/ Katie Hurrelbrink

KATIE HURRELBRINK

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