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

12
13 **MOHAMMAD HASAN BILAL,¹**

14 **Petitioner,**

15 **v.**

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

21 **Respondents.**

22 **CIVIL CASE NO.: '26CV2819 DMS SBC**

23 **Petition for Writ**
24 **of**
25 **Habeas Corpus**

26 **[Civil Immigration Habeas,**
27 **28 U.S.C. § 2241]**

28 ¹ Federal Defenders of San Diego, Inc., is filing the instant petition with provisional appointment under Chief Judge Order No. 134.

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 A. Claim One: ICE failed to comply with its own regulations when it re-detained Mr. Bilal, violating his rights under applicable regulations and due process. 2

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1 **I. Introduction**

2 Mr. Bilal was born in Pakistan and came to the United States in 1991. In
3 2003, he was granted withholding of removal and released on an order of
4 supervision. But on March 1, 2026, when he was helping a friend move to
5 Arizona and went through an immigration checkpoint, officials revoked his
6 supervision without giving him meaningful notice or an opportunity to respond, as
7 required by regulation. What’s more, the six-month presumptively-reasonable
8 removal period has long since passed, and Mr. Bilal’s grant of withholding means
9 that his removal is not significantly likely in the reasonably foreseeable future
10 under *Zadvydas v. Davis*, 533 U.S. 678 (2001). For either reason, this Court
11 should grant this habeas petition and order Mr. Bilal’s immediate release.

12 **II. Statement of Facts**

13 Mr. Bilal was born in Pakistan and came to the United States on a visitor’s
14 visa in September 1991. Exhibit A, Declaration of Mohammad Hasan Bilal, at ¶
15 1. Mr. Bilal overstayed his visa and continued to live in the U.S. *Id.* at ¶ 1.

16 At some point, Mr. Bilal was picked up and put into removal proceedings.
17 *Id.* at ¶ 2. On January 30, 2003, an immigration judge ordered him removed but
18 granted him withholding of removal to Pakistan. *Id.* at ¶ 2.

19 After Mr. Bilal’s removal proceedings, he had to come in once a year to
20 renew his work permit. *Id.* at ¶ 3. As far as he knows, he never failed to do so. *Id.*
21 at ¶ 3.

22 On March 1, 2026, Mr. Bilal was helping a friend move to Arizona, and
23 they drove through an immigration checkpoint. *Id.* at ¶ 4. Mr. Bilal showed the
24 officer his ID, but they took him into custody. *Id.* at ¶ 4.

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1 **III. Argument**

2 This Court should grant this petition and order Mr. Bilal’s immediate
3 release. ICE failed to follow its own regulations requiring changed circumstances
4 before re-detention, as well as a chance to promptly contest a re-detention
5 decision. And *Zadvydas v. Davis* holds that immigration statutes do not authorize
6 the government to detain immigrants like Mr. Bilal, for whom there is “no
7 significant likelihood of removal in the reasonably foreseeable future.” 533 U.S.
8 678, 701 (2001).

9 **A. Claim One: ICE failed to comply with its own regulations when**
10 **it re-detained Mr. Bilal, violating his rights under applicable**
11 **regulations and due process.**

12 Two regulations establish the process due to someone who is re-detained in
13 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to
14 all re-detentions, generally. 8 C.F.R. § 241.13(i) applies as an added, overlapping
15 framework to persons released upon good reason to believe that they will not be
16 removed in the reasonably foreseeable future, as Mr. Bilal was. *See Phan v.*
17 *Noem*, 2025 WL 2898977, No. 25-CV-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct.
18 10, 2025) (explaining this regulatory framework and granting a habeas petition for
19 ICE’s failure to follow these regulations for a refugee of Vietnam who entered the
20 United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL
21 2646165 at *2 (same as to an Iranian national).

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

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

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

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

11 ICE is required to follow its own regulations. *United States ex rel. Accardi*
12 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,
13 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to
14 abide by certain internal policies is well-established.”). A court may review a re-
15 detention decision for compliance with the regulations, and “where ICE fails to
16 follow its own regulations in revoking release, the detention is unlawful and the
17 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4
18 (collecting cases); *accord Phan*, 2025 WL 2898977 at *5.

19 ICE followed none of its regulatory prerequisites to re-detention here.

20 First, ICE did not identify a proper reason under the regulations to re-detain
21 Mr. Bilal. Mr. Bilal was not given a reason for revoking his supervision, or if he
22 was, he didn’t understand it. *Id.* at ¶ 4.

23 Second, Mr. Bilal is unsure whether he received an informal interview
24 where an officer explained the purported “changed circumstances” underlying his
25 revocation. “Simply to say that circumstances had changed or there was a
26 significant likelihood of removal in the foreseeable future is not enough.” *Sarail*
27 *A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673, at *3 (D. Minn. Sept. 3, 2025).
28 Rather, “Petitioner must be told *what* circumstances had changed or *why* there

1 was now a significant likelihood of removal in order to meaningfully respond to
 2 the reasons and submit evidence in opposition, as allowed under § 241.13(i)(3).”
 3 *Id.* By “identif[y]ing] the category—‘changed circumstances’—but fail[ing] to
 4 notify [Petitioner] of the reason—the circumstances that changed and created a
 5 significant likelihood of removal in the reasonably foreseeable future—[ICE]
 6 failed to follow the relevant regulation.” *Id.* This failure to identify any changed
 7 circumstances also means he has he been afforded a meaningful opportunity to
 8 respond to the reasons for revocation or submit evidence rebutting his re-
 9 detention. Exh. A at ¶ 4.

10 Numerous courts have released re-detained immigrants after finding that
 11 ICE failed to comply with applicable regulations this summer and fall. These have
 12 included courts in this district,² as well as courts outside this district.³

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 14
 15 ² *Constantinovici v. Bondi*, ___ F. Supp. 3d ___, 2025 WL 2898985, No. 25-cv-
 16 2405-RBM (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-
 17 RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025); *Nguyen v. Noem*, 2025 WL
 18 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Sun v.*
 19 *Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van*
 20 *Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29,
 21 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10,
 22 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D.
 23 Cal. Oct. 9, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal.
 24 Oct. 10, 2025); *Sphabmixay v. Noem*, 25-cv-2648-LL-VET (S.D. Cal. Oct. 30,
 25 2025); *Sayvongsa v. Noem*, 25-cv-2867-AGS-DEB (S.D. Cal. Oct. 31, 2025);
 26 *Thammavongsa v. Noem*, 25-cv-2836-JO-AHG (S.D. Ca. Nov. 3, 2025) (same);
 27 *Phakeokoth v. Noem*, 25-cv-2817-RBM-SBC (S.D. Cal. Nov. 7, 2025);
 28 *Soryadvongsa v. Noem*, 25-cv-2663-AGS-DDL (S.D. Cal. Nov. 8, 2025).

³ *Grigorian*, 2025 WL 2604573; *Delkash v. Noem*, 2025 WL 2683988; *Ceesay v.*
Kurzdorfer, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F.
 Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387
 (D. Mass. 2017); *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*, 2025 WL 1696526, at *2; *M.Q. v. United States*, 2025
 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

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

5 **B. Claim Two: Mr. Bilal’s detention violates *Zadvydas* and 8 U.S.C.
6 § 1231.**

7 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
8 a problem affecting people like Mr. Bilal: Federal law requires ICE to detain an
9 immigrant during the “removal period,” which typically spans the first 90 days
10 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-
11 day removal period expires, detention becomes discretionary—ICE may detain
12 the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily,
13 this scheme would not lead to excessive detention, as removal happens within
14 days or weeks. But some detainees cannot be removed quickly. Perhaps their
15 removal “simply require[s] more time for processing,” or they are “ordered
16 removed to countries with whom the United States does not have a repatriation
17 agreement,” or their countries “refuse to take them,” or they are “effectively
18 ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v. Ashcroft*,
19 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained
20 immigrants can find themselves trapped in detention for months, years, decades,
21 or even the rest of their lives. If federal law were understood to allow for
22 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
23 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
24 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.
25 *Id.* at 689.

26 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to
27 detain an immigrant for 180 days after his or her removal order becomes final.
28 After those 180 days have passed, the immigrant must be released unless his or

1 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six
2 months have passed, the petitioner must only make a prima facie case for relief—
3 there is “good reason to believe that there is no significant likelihood of removal
4 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the
5 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*

6 Further, even before the 180 days have passed, the immigrant must still be
7 released if he *rebutts* the presumption that his detention is reasonable. *See, e.g.,*
8 *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) (collecting cases
9 on rebutting the *Zadvydas* presumption before six months have passed); *Zavvar v.*
10 *Scott*, Civil No. 25-2104-TDC, 2025 WL 2592543, *6 (D. Md. Sept. 8, 2025)
11 (finding the presumption rebutted for a person who was immediately released
12 after being ordered removed and, years later, re-detained for less than six months).

13 Mr. Bilal can make all the threshold showings needed to prove his
14 *Zadvydas* claim and shift the burden to the government because the six-month
15 grace period has long since ended. The *Zadvydas* grace period is linked to the date
16 the final order of removal is issued. It lasts for “*six months* after a final order of
17 removal—that is, *three months* after the statutory removal period has ended.” *Kim*
18 *Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001); *see also* 8 U.S.C. §
19 1231(a)(1)(B) (linking the statutory removal period to issuance of the final order
20 and other proceedings associated with the original removal order).

21 Here, Mr. Bilal’s order of removal was entered on January 30, 2003. Exh.
22 A at ¶ 2. Accordingly, his 90-day removal period began then. 8 U.S.C.
23 § 1231(a)(1)(B). The *Zadvydas* grace period thus expired in July 2003, three
24 months after the removal period ended. *See, e.g., Tadros v. Noem*, 2025 WL
25 1678501, No. 25-cv-4108(EP), *2–*3.⁴

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27
28 ⁴ The government has sometimes argued that release and rearrest resets the six-
month grace period completely, taking the clock back to zero. “Courts . . . broadly
agree” that this is not correct. *Diaz-Ortega v. Lund*, 2019 WL 6003485, at *7 n.6

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

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

16 **"Significant likelihood of removal."** This component focuses on whether
 17 Mr. Bilal will likely be removed: Continued detention is permissible only if it is

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 19 (W.D. La. Oct. 15, 2019), *report and recommendation adopted*, 2019 WL
 20 6037220 (W.D. La. Nov. 13, 2019); *see also Sied v. Nielsen*, No. 17-CV-06785-
 LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018) (collecting cases).

21 It has also sometimes argued that rearrest creates a new three-month grace
 22 period. As a court explained in *Bailey v. Lynch*, that view cannot be squared with
 23 the statutory definition of the removal period in 8 U.S.C. § 1231(a)(1)(B). No. CV
 24 16-2600 (JLL), 2016 WL 5791407, at *2 (D.N.J. Oct. 3, 2016). "Pursuant to the
 25 statute, the removal period, and in turn the [six-month] presumptively reasonable
 26 period, begins from the latest of 'the date the order of removal becomes
 27 administratively final,' the date of a reviewing court's final order where the
 28 removal order is judicially removed and that court orders a stay of removal, or the
 alien's release from detention or confinement where he was detained for reasons
 other than immigration purposes at the time of his final order of removal." *Id.*
 None of these statutory starting points have anything to do with whether or when
 an immigrant is detained. *See id.* Because the statutorily-defined removal period
 has nothing to do with release and rearrest, releasing and rearresting the
 immigrant cannot reset the removal period.

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

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

23 Mr. Bilal’s own experience bears this out. ICE has now had 23 years to
24 deport him. He has cooperated with ICE’s removal efforts throughout that time.
25 Yet ICE has proved unable to remove him. Nor is the government likely to be
26 able to remove him because the IJ granted him withholding of removal to
27 Pakistan. Thus, Mr. Bilal has met his initial burden, and the burden shifts to the
28 government. Unless the government can prove a “significant likelihood of

1 removal in the reasonably foreseeable future,” Mr. Bilal must be released.
2 *Zadvydas*, 533 U.S. at 701.

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

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

7 **V. Prayer for relief**

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

- 9 1. Order and enjoin Respondents to immediately release Petitioner from
- 10 custody;
- 11 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
- 12 § 1231(a)(6) unless and until Respondents obtain a travel document for
- 13 his removal;
- 14 3. Enjoin Respondents from re-detaining Petitioner without first following
- 15 all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other
- 16 applicable statutory and regulatory procedures;
- 17 4. Order all other relief that the Court deems just and proper.

18 Respectfully submitted,

19
20 Dated: May 4, 2026

21 *s/ Kara Hartzler*
 22 _____
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 24 Attorneys for Mr. Bilal
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