

1 Paul A. Barr
2 California State Bar No. 247951
3 Flowers Keller LLP
4 1601 Connecticut Ave. NW
5 Washington, D.C. 20009
6 Telephone: 202.851.8742
7 pbarr@flowerskeller.com

8 Attorneys for Mr. Hurtado-Asprilla

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

Zamir Ignacio Hurtado-Asprilla,

Petitioner,

v.

Christopher Larose,

Respondent.

CASE NO.: 26-cv-2925-BAS-MMP

Amended¹ Petition for Writ
of
Habeas Corpus
[28 U.S.C. § 2241]

INTRODUCTION

On March 4, 2026, Zamir Ignacio Hurtado-Asprilla was ordered removed to Ecuador. But Mr. Hurtado-Asprilla is not Ecuadorian, and he does not possess travel documents to enter that country. And so it is that, more than three months since he was ordered removed, Mr. Hurtado-Asprilla remains detained. Because “there is no significant likelihood of removal in the reasonably foreseeable future,” that detention is no longer statutorily authorized, and this Court must order Mr. Hurtado-Asprilla’s immediate release. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

¹ Federal Rule of Civil Procedure 15(a)(2) permits a party to amend its pleading with the court’s leave. Fed. R. Civ. P. 15(a)(2). This Court granted Mr. Hurtado-Asprilla’s request to file an amended petition on May 28, 2026. Dkt. No. 7, at 2.

STATEMENT OF FACTS

I. ICE has made no apparent progress in removing Mr. Hurtado-Asprilla to Ecuador.

Mr. Hurtado-Asprilla was born in Venezuela [REDACTED]. Decl. of Mr. Hurtado-Asprilla, attached as Exh. A, at ¶ 1. He fled Venezuela, along with his wife and children, and sought asylum in the United States in 2023. *Id.* An immigration judge denied Mr. Hurtado-Asprilla's asylum claim on March 4, 2026, and ordered him removed to Ecuador. *Id.* at ¶¶ 1, 5.

Since being ordered removed, Mr. Hurtado-Asprilla has remained in custody. Exh. A at ¶ 4. He has no documents that would allow him to enter Ecuador. *Id.* at ¶ 6. Mr. Hurtado-Asprilla has seen no indication that Ecuador has accepted him for removal, and ICE has made no claim to that effect. *Id.* at ¶ 8.

CLAIMS FOR RELIEF

This Court should grant this petition and order Mr. Hurtado-Asprilla'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).

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

A. Legal standard

Mr. Hurtado-Asprilla'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. Hurtado-Asprilla. 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

1 quickly. Perhaps their removal “simply require[s] more time for processing,” or they
2 are “ordered removed to countries with whom the United States does not have a
3 repatriation agreement,” or their countries “refuse to take them,” or they are
4 “effectively ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma v.*
5 *Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances,
6 detained immigrants can find themselves trapped in detention for months, years,
7 decades, or even the rest of their lives.

8 If federal law were understood to allow for “indefinite, perhaps permanent,
9 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at 699.
10 In *Zadvydas*, the Supreme Court avoided the constitutional concern by interpreting
11 § 1231(a)(6) to incorporate implicit limits. *Id.* at 689. Thus, § 1231(a)(6) “authorizes
12 further detention if the Government fails to remove the [noncitizen] during those 90
13 days.” *Zadvydas*, 533 U.S. at 682. Indeed, *Zadvydas* held that detention is “presumptively
14 reasonable” for at least six months. *Id.* at 701. This acts as a kind of grace period for
15 effectuating removals. “The statute, however, is limited to ‘a period reasonably
16 necessary to bring about [the noncitizen’s] removal from the United States’ and ‘does
17 not permit indefinite detention.’” *Ghamoushi-Ramandi v. Noem*, No. 26-CV-1758-LL-
18 SBC, 2026 WL 984278, at *2 (S.D. Cal. Apr. 13, 2026) (citing *Zadvydas*, 533 U.S. at
19 689).

20 “Multiple district courts have found that the six-month presumption in *Zadvydas*
21 is rebuttable.” *Ghamoushi-Ramandi*, 2026 WL 984278, at *2 (collecting cases). To prevail
22 “[w]ithin the six-month period, ‘the petitioner must claim and *prove* [] that his removal
23 is not reasonably foreseeable’ to overcome the presumption.” *Ndandu v. Noem*, No. 25-
24 cv-2939-RBM-MSB, 2026 WL 25848, at *4–6 (S.D. Cal. Jan. 5, 2026) (citing *Munoz-
25 Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398 (D.N.J. 2025)). This Court must “measure
26 reasonableness primarily in terms of the statute’s basic purpose, namely, assuring the
27 [noncitizen’s] presence at the moment of removal.” *Zadvydas*, 533 U.S. at 699. “[O]nce
28 removal is no longer reasonably foreseeable, continued detention is no longer

1 authorized by statute.” *Id.*

2 Because Mr. Hurtado-Asprilla has met this standard, his continued detention is
3 unlawful and he should be released.

4 **B. There is no reason to believe that Mr. Hurtado-Asprilla will be**
5 **removed in the reasonably foreseeable future.**

6 Continued detention is permissible only if it is “significant[ly] like[ly]” that
7 ICE will be able to remove him. *Zadydas*, 533 U.S. at 701. This inquiry targets “not
8 only the *existence* of untapped possibilities, but also [the] probability of *success* in such
9 possibilities.” *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second
10 emphasis added). In other words, even if “there remains *some* possibility of removal,”
11 a petitioner can still meet his burden if there is good reason to believe that successful
12 removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL
13 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

14 Similarly, continued detention is permissible only if removal is likely to happen
15 “in the reasonably foreseeable future.” *Zadydas*, 533 U.S. at 701. This inquiry places
16 a time limit on ICE’s removal efforts. If the Court has “no idea of when it might
17 reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude
18 that his removal is likely to occur—or even that it might occur—in the reasonably
19 foreseeable future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158,
20 at *3 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL 4876859
21 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102
22 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Hurtado-Asprilla
23 “would *eventually* receive” a travel document, he can still meet his burden by giving
24 good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL
25 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

26 Mr. Hurtado-Asprilla has good reason to doubt his likelihood of removal in
27 the reasonably foreseeable future. The only country that has been designated for his
28 removal is Ecuador, a country where Mr. Hurtado-Asprilla has neither citizenship

nor entry documents. And, so far as Mr. Hurtado-Asprilla is aware, ICE has made no effort, much less any progress, in obtaining documents or permission for him to enter Ecuador. Exh. A at ¶¶ 6–8. Nor has ICE communicated to Mr. Hurtado-Asprilla if—or when—such documents will be obtained. At this point, more than three months after he was ordered removed from this country, Mr. Hurtado-Asprilla’s removal remains entirely theoretical and prospective, and not something that will happen—if at all—in the reasonably foreseeable future.

Thus, Mr. Hurtado-Asprilla has met his burden. There simply is no evidence in the record that he can be removed to Ecuador, that ICE has made any effort to secure him travel documents for that country, or that there will be a change in those circumstances in the reasonably foreseeable future.

II. 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. Hurtado-Asprilla hereby requests such a hearing on any material, disputed facts.

III. 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 Venezuela 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;

- 1 b. a meaningful opportunity, and a minimum of ten days, to raise a fear-
2 based claim for CAT protection prior to removal;
3 c. if Petitioner is found to have demonstrated “reasonable fear” of
4 removal to the country, Respondents must move to reopen
5 Petitioner’s immigration proceedings;
6 d. if Petitioner is not found to have demonstrated a “reasonable fear” of
7 removal to the country, a meaningful opportunity, and a minimum of
8 fifteen days, for the Petitioner to seek reopening of his immigration
9 proceedings.

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

11
12 Respectfully submitted,

13 Dated: June 10, 2026

s/ Paul A. Barr

14 Paul A. Barr
15 Flowers Keller LLP
16 Attorneys for Mr. Hurtado-Asprilla
17 Email: pbarr@flowerskeller.com
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