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Table of Contents

I. Introduction 1
II. Statement of Facts 1
III. Legal Analysis..... 2
IV. This Court must hold an evidentiary hearing on any disputed facts. 4
V. Prayer for relief 4

1 **I. Introduction**

2 Peter Lino was born in what is now South Sudan. As a child, he watched
3 his parents killed in front of him. After fleeing and moving between various
4 countries for decades, he entered the United States on August 1, 2025. But within
5 a month, he received a negative credible fear determination and an order of
6 removal.

7 In February 2026, Mr. Lino was put on a plane and flown to Senegal. But
8 when he arrived, Mr. Lino and seven other people were not allowed to leave the
9 airport. After 20 hours of remaining in the airport, they were flown back to the
10 United States. In the months since, Mr. Lino has never been told when or where
11 he will be removed. Because of this, Mr. Lino's removal is not significantly likely
12 in the reasonably foreseeable future under *Zadvydas v. Davis*, 533 U.S. 678
13 (2001), and this Court should order his immediate release.

14 **II. Statement of Facts**

15 Mr. Lino was born in what is now South Sudan. Declaration of Peter Lino,
16 Exhibit A ("Exh. A") ¶ 1. As a child, he watched as his parents were killed in
17 front of him. *Id.* at ¶ 1. He then fled his country when he was ten years old. *Id.* at
18 ¶ 2.

19 For the next five decades, Mr. Lino moved around between other African
20 countries. *Id.* at ¶ 2. He never had permanent status in any of those countries. *Id.*
21 at ¶ 2.

22 On August 1, 2025, Mr. Lino entered the United States to try to apply for
23 asylum. *Id.* at ¶ 3. However, he received a negative credible fear determination
24 and an order of removal within a month or so. *Id.* at ¶ 3. Mr. Lino never saw an
25 immigration judge. *Id.* at ¶ 3.

26 On February 28, 2026, Mr. Lino was flown from Arizona to Senegal. *Id.* at
27 ¶ 3. However, when he arrived in Senegal, Mr. Lino and seven other people were
28 not allowed to leave the airport. *Id.* at ¶ 4. They were held in the airport for 20

1 hours. *Id.* at ¶ 5. At the end of those 20 hours, they put the eight individuals on a
2 plane and flew them back to Arizona. *Id.* at ¶ 5.

3 Two weeks later, ICE again took Mr. Lino to the airport. *Id.* at ¶ 6. But this
4 time, he was not even put on a plane. Instead, they simply took him back to the
5 detention center. *Id.* at ¶ 6. A week later, he was moved from Arizona to Otay
6 Mesa Detention Center. *Id.* at ¶ 6.

7 In the two months since Mr. Lino was brought to Otay Mesa, ICE has never
8 spoken to him or told him when or where he will be sent. *Id.* at ¶ 7. Mr. Lino is
9 now 62 years old; he has serious health problems and must use a walker. *Id.* at
10 ¶ 8.

11 **III. Legal Analysis.**

12 This Court should grant Mr. Lino’s petition and order his immediate
13 release. In the eight months since his order of removal, Respondents have been
14 unable to remove Mr. Lino—even when they physically transport him to another
15 continent. This shows that there is “no significant likelihood of removal in the
16 reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

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

1 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained
2 immigrants can find themselves trapped in detention for months, years, decades,
3 or even the rest of their lives. If federal law were understood to allow for
4 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
5 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
6 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits.
7 *Id.* at 689.

8 *Zadvydas* held that § 1231(a)(6) presumptively permits the government to
9 detain an immigrant for 180 days after his or her removal order becomes final.
10 After those 180 days have passed, the immigrant must be released unless his or
11 her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six
12 months have passed, the petitioner must only make a prima facie case for relief—
13 there is “good reason to believe that there is no significant likelihood of removal
14 in the reasonably foreseeable future.” *Id.* Then the burden shifts to “the
15 Government [to] respond with evidence sufficient to rebut that showing.” *Id.*

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

23 Mr. Lino can make all the threshold showings needed to prove his
24 *Zadvydas* claim and shift the burden to the government.

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

1 also 8 U.S.C. § 1231(a)(1)(B) (linking the statutory removal period to issuance of
2 the final order and other proceedings associated with the original removal order).

3 Here, it appears that Mr. Lino’s order of removal was entered sometime in
4 August 2025. Exh. A at ¶ 3. Accordingly, his 90-day removal period began then.
5 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period thus expired in
6 approximately February 2026, three months after the removal period ended. *See*,
7 *e.g.*, *Tadros v. Noem*, 2025 WL 1678501, No. 25-cv-4108(EP), *2–*3.
8 Accordingly, there is good reason to believe that his removal is not significantly
9 likely in the reasonably foreseeable future.

10 Respondents’ unsuccessful attempts to remove him confirm this. At the six-
11 month mark, Mr. Lino was flown from Arizona to Senegal. Exh. A at ¶ 3. But
12 when he arrived in Senegal, Mr. Lino and seven other people were not allowed to
13 leave the airport and were simply held there for 20 hours. *Id.* at ¶ 4, 5. At the end
14 of those 20 hours, Respondents put the eight individuals on a plane and flew them
15 back to Arizona. *Id.* at ¶ 5. And two weeks later, ICE again took Mr. Lino to the
16 airport but was not able to successfully remove him. *Id.* at ¶ 6.

17 These repeated unsuccessful attempts show that Mr. Lino’s removal is not
18 likely in the reasonably foreseeable future. Thus, this Court should grant the
19 petition and order Mr. Lino released.

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

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

24 **V. Prayer for relief**

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

- 26 1. Order and enjoin Respondents to immediately release Petitioner from
27 custody;

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

Respectfully submitted,

Dated: May 14, 2026

s/ Kara Hartzler

Federal Defenders of San Diego, Inc.
Attorneys for Mr. Lino
Email: kara_hartzler@fd.org

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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.

Dated: May 14, 2026

/s/ Kara Hartzler
Kara L. Hartzler