

1 Prerna Preshika Lal
2 SBN: 354786
3 Lal Legal APLC
4 2001 Addison St STE 300
5 Berkeley CA 94704
6 (800) 552-5616
7 prerna@lallegal.com

8 *Attorney for Petitioner*

9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **LUIS ALONSO VALLE**



14 Petitioner,

15 v.

16 **CHRISTOPHER LAROSE**, Warden of Otay Mesa
17 Detention Center; **DANIEL BRIGHTMAN**, Acting
18 Field Office Director, San Diego Office; **TODD**
19 **LYONS**, in his official capacity as Acting Director
20 of Immigration and Customs
21 Enforcement; **MARKWAYNE MULLIN**, U.S.
22 Department of Homeland Security; and **TODD**
23 **BLANCHE**, Acting U.S. Attorney General.

24 Respondents.

Civil Action No.: '26CV3731 LL AHG

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26
27
28 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner LUIS ALONSO VALLE, a 58-year-old citizen and national of El Salvador, has been unlawfully detained by U.S. Immigration and Customs Enforcement (“ICE”) for over 460 days, despite having been granted deferral of removal under the Convention Against Torture (“CAT”) by Immigration Judge Eugene H. Robinson, Jr. on September 10, 2025.
2. The Immigration Judge found that Petitioner faces a substantial risk of torture if returned to El Salvador and accordingly granted CAT deferral. Respondents appealed that decision, but the appeal does not authorize the indefinite detention of Petitioner.
3. Petitioner’s removal to El Salvador is legally barred by the CAT deferral grant, and no third country has been identified that is willing to accept him. Nevertheless, Petitioner remains detained with no end in sight, effectively condemned to a “removable-but-unremovable limbo.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).
4. This prolonged detention violates the Fifth Amendment Due Process Clause under *Zadvydas v. Davis*, 533 U.S. 678 (2001), which held that post-removal detention is only authorized for a period reasonably necessary to effect removal. It also violates 8 U.S.C. § 1231(a)(6), which does not permit indefinite detention, and 8 C.F.R. §§ 241.4 and 241.13, which govern revocation of release.
5. Petitioner seeks immediate release from custody because his continued detention serves no legitimate purpose. Respondents cannot remove him to El Salvador due to the CAT deferral grant, and it has failed to identify any third country willing to accept him. Respondents’ pending appeal does not change this reality; it merely prolongs Petitioner’s unlawful confinement while providing no path to removal. As the Supreme Court recognized in *Zadvydas*, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” 533 U.S. at 699. Because removal is not reasonably

foreseeable, Respondents' continued detention of Petitioner serves no legitimate regulatory purpose and is therefore unconstitutional.

JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2.
7. Section 1252(g) does not bar this Court's jurisdiction because Petitioner challenges his detention, not the decision to "commence proceedings, adjudicate cases, or execute removal orders." *Ibarra-Perez v. United States*, 154 F.4th 989, 996-97 (9th Cir. 2025) ("§ 1252(g) does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders").
8. Venue is proper in the Southern District of California because Petitioner is detained at the Otay Mesa Detention Center, which is located within this district. 28 U.S.C. § 2241(a); 28 U.S.C. § 1391(b)(2).

PARTIES

9. Petitioner Luis Alonso Valle is a citizen and national of El Salvador currently detained at Otay Mesa Detention Center in San Diego, California.
10. Respondent Christopher Larose is the Warden of the Otay Mesa Detention Center, where Petitioner is detained, and has immediate physical custody of Petitioner. He is sued in his official capacity.
11. Respondent Daniel Brightman is the Acting Field Office Director for the San Diego Field Office of ICE's Enforcement and Removal Operations. He is responsible for Petitioner's detention and removal and is sued in his official capacity.
12. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, sued in his official capacity.

1 13. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland
2 Security, sued in his official capacity.

3 14. Respondent Todd Blanche is the Acting Attorney General of the United States, sued in his
4 official capacity.

5 **FACTUAL BACKGROUND**

6 **A. Petitioner's Immigration Status and Criminal History**

7 15. Petitioner Luis Alonso Valle is a 58-year-old citizen and national of El Salvador, born
8  in Santa Ana, El Salvador. Chapa Decl. ¶ 6.

9
10 16. He was admitted to the United States as a lawful permanent resident on March 19, 1986,
11 at San Ysidro, California. Chapa Decl. ¶ 7, Exh. 1, NTA.

12 17. On January 29, 1993, Petitioner was convicted of first-degree murder under California
13 Penal Code section 187 in the Los Angeles County Superior Court, Case No. 
14 He received a sentence of 25 years to life, plus a five-year enhancement under California
15 Penal Code section 12022.5, for a total term of 30 years to life. Chapa Decl. ¶ 8; Exh. 2, I-
16 213.

17
18 18. Between 1986 and 1991, Petitioner also sustained convictions for vehicle theft, possession
19 of a weapon, burglary, driving under the influence, and driving with a suspended license.
20 Chapa Decl. ¶ 9; Exh. 2, I-213.

21 **B. ICE Detention and CAT Deferral**

22 19. On October 31, 2024, while Mr. Valle was still serving his sentence at CDCR's
23 Correctional Training Facility in Soledad, California, ICE's San Jose Sub Office received
24 an electronic notice from CDCR that he would soon be released because he had completed
25 his sentence. Chapa Decl. ¶ 12; Exh. 2, I-213.

26
27 20. CDCR also provided ICE with Mr. Valle's electronic prison records, which indicated that
28 he may not be a U.S. citizen. Chapa Decl. ¶ 13; Exh. 2, I-213. On March 20, 2025,
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1 Deportation Officer R. Lopez arrested Mr. Valle at the Correctional Training Facility in
2 Soledad and transferred him into ICE custody. Chapa Decl. ¶ 14; Exh. 2, I-213.

3 21. On September 10, 2025, Immigration Judge Eugene H. Robinson, Jr. held an individual
4 merits hearing for Mr. Valle at the Otay Mesa Immigration Court. Chapa Decl. ¶ 15.

5 22. The Immigration Judge granted Petitioner deferral of removal under the Convention
6 Against Torture (“CAT”), finding that he faces a substantial risk of torture if returned to El
7 Salvador. Chapa Decl. ¶¶ 16–17; Exh. 3, IJ Order.

8 23. The Immigration Judge also issued an order of removal to El Salvador. Chapa Decl. ¶ 18;
9 *Id.* Respondents reserved their right to appeal the IJ’s CAT deferral grant, and Petitioner
10 waived his right to appeal. Chapa Decl. ¶¶ 19–20.

11 24. On September 10, 2025, the same day the IJ issued the order of removal, the removal order
12 became administratively final for detention purposes. *See Padilla-Ramirez v. Bible*, 882
13 F.3d 826, 831 (9th Cir. 2017) (“holding that a reinstated removal order remains
14 administratively final for detention purposes notwithstanding pending withholding-only
15 proceedings”). The removal order remains final and enforceable, subject only to the CAT
16 deferral that bars removal to El Salvador.

17
18
19 **C. Respondents’ Appeal and Inability to Remove Petitioner**

20 25. Respondents appealed the IJ’s CAT deferral grant to the Board of Immigration Appeals
21 (“BIA”). Chapa Decl. ¶ 21.

22 26. As of the date of this petition, the appeal remains pending, which is more than nine months
23 after the IJ’s decision. Chapa Decl. ¶ 22.

24 27. Respondents have not identified any third country willing to accept Petitioner for removal.
25 Chapa Decl. ¶ 23. Petitioner’s removal to El Salvador is legally barred by the CAT deferral
26 grant. Chapa Decl. ¶ 24.
27
28

1 28. Because Petitioner cannot be removed to El Salvador and no third country has been
2 identified, there is no significant likelihood of removal in the reasonably foreseeable future.
3 Chapa Decl. ¶ 25.

4 **D. Detention Timeline**

5 29. Petitioner has remained in ICE custody since March 20, 2025, and as of June 23, 2026, has
6 been detained for 460 days—more than fifteen months. Chapa Decl. ¶ 29. His removal
7 order became final on September 10, 2025, and the six-month *Zadvydas* presumptive
8 removal period expired on March 10, 2026. Chapa Decl. ¶¶ 30–31. Yet Respondents
9 continue to detain Petitioner even though they have been unable to effectuate his removal
10 to El Salvador or to any third country. Chapa Decl. ¶ 32.

12 30. Petitioner suffers from multiple medical conditions, including degeneration of lumbar
13 intervertebral disc, essential hypertension, hyperlipidemia, nonalcoholic steatohepatitis,
14 obesity, cirrhosis, CKD, CVD-HTN, dyslipidemia, and unspecified hepatitis. Chapa Decl.
15 ¶ 29.

17 31. Petitioner requires ongoing medication, including 

18 
19  Chapa Decl. ¶ 30.

20 **E. Exhaustion of Administrative Remedies**

21 32. Prior to initiating this action, Petitioner exhausted available administrative remedies by
22 submitting a comprehensive request for release from custody pursuant to parole under INA
23 § 236(a) and 8 C.F.R. § 236.1(c)(8) on May 23, 2025. Chapa Decl. ¶ 36.

25 33. The request was supported by letters from Petitioner's family members, certificates of
26 completion for his rehabilitation programs, and Petitioner's own declaration documenting
27 his extensive efforts at personal reform. Chapa Decl. ¶ 37. Respondents never responded
28 to the request. Chapa Decl. ¶ 38.

1 34. Although exhaustion of administrative remedies is not a prerequisite to filing a habeas
 2 corpus petition under 28 U.S.C. § 2241, Petitioner's attempt to obtain relief through
 3 administrative channels underscores the futility of further administrative proceedings and
 4 demonstrates that Respondents have had ample opportunity to address Petitioner's
 5 unlawful detention. *See Singh v. Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011)
 6 (exhaustion is prudential rather than jurisdictional and may be excused where it would be
 7 futile).
 8

9 LEGAL BACKGROUND

10 A. Post-Removal Detention Under 8 U.S.C. § 1231(a)

11 35. The INA establishes a complex scheme for the detention of noncitizens. This scheme is
 12 primarily governed by 8 U.S.C. §§ 1225(b), 1226(a), 1226(c), and 1231(a). *Avilez v.*
 13 *Garland*, 69 F.4th 525, 529 (9th Cir. 2023). Where a noncitizen falls within this scheme
 14 affects whether detention is mandatory or discretionary and the review process
 15 available. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).
 16

17 36. Section 1231(a) governs the detention of noncitizens who have been subject to a final order
 18 of removal. *Johnson v. Guzman Chavez*, 594 U.S. 523, 528 (2021). The statute provides
 19 for a 90-day "removal period," during which detention is mandatory. 8 U.S.C. §
 20 1231(a)(1)-(2). The removal period begins on the latest of the date the order becomes
 21 administratively final, the date of a final court order following a stay, or the date the
 22 noncitizen is released from non-immigration detention. 8 U.S.C. § 1231(a)(1)(B).
 23

24 37. If Respondents fail to remove the noncitizen within the 90-day period, § 1231(a)(6) permits
 25 continued detention for certain categories of noncitizens, or release under an order of
 26 supervision. *Zadvydas*, 533 U.S. at 682.

27 38. The regulation governing CAT deferral states that deferral "does not alter the authority of
 28 the Service to detain a [noncitizen] whose removal has been deferred." 8 C.F.R. §
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1 1208.17(c). That provision, however, does not create independent authority for indefinite
2 detention. Rather, it directs detention decisions to Part 241 of the regulations, which
3 implements 8 U.S.C. § 1231, which is the very statutory scheme that *Zadvydas* construed
4 to prohibit indefinite detention.

5 **B. Substantive Limits on Post-Removal Detention: The *Zadvydas* Doctrine**

6 34. In *Zadvydas v. Davis*, the Supreme Court held that § 1231(a)(6) does not authorize
7 indefinite detention and instead permits detention only for a period reasonably necessary
8 to effectuate removal. 533 U.S. 678, 689 (2001). The Court further held that six months is
9 the presumptively reasonable period of post-removal detention. *Id.* at 701.

10 35. After this six-month period, “once the [noncitizen] provides good reason to believe that
11 there is no significant likelihood of removal in the reasonably foreseeable future, the
12 Government must respond with evidence sufficient to rebut that showing.” *Id.* As the period
13 of detention grows, “what counts as the ‘reasonably foreseeable future’ conversely would
14 have to shrink.” *Id.*

15 36. The *Zadvydas* framework applies even where a petitioner has a criminal record. *Zadvydas*,
16 533 U.S. at 684-86; *Baltodano v. Bondi*, 815 F. Supp. 3d 1191, 1199 (W.D. Wash. 2025).
17 Courts in the Ninth Circuit count prior detention periods cumulatively to determine
18 whether the six-month mark has been reached. *See, e.g., Nguyen v. Scott*, 796 F. Supp. 3d
19 703, 722 (W.D. Wash. 2025).

20 37. “If removal is not reasonably foreseeable, the court should hold continued detention
21 unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699-700. In such
22 cases, the noncitizen “may and should be conditioned on any of the various forms of
23 supervised release that are appropriate in the circumstances.” *Id.* at 700.

24 **C. The Finality of Removal Orders for Detention Purposes**

1 38. A removal order is administratively final for purposes of detention under 8 U.S.C. §
2 1231(a) even while withholding-only proceedings are pending. In *Padilla-Ramirez v.*
3 *Bible*, 882 F.3d 826, 831 (9th Cir. 2017), the Ninth Circuit held that “reinstated removal
4 orders are administratively final at the time they are entered, notwithstanding the pendency
5 of withholding only proceedings, and therefore the Government’s detention authority lies
6 in 8 U.S.C. § 1231(a).”

7 39. The Supreme Court’s decision in *Riley v. Bondi*, 606 U.S. 259 (2025), is consistent with
8 this principle. There, the Court held that a Board of Immigration Appeals decision in a
9 withholding-only proceeding is not itself a “final order of removal” for purposes of the 30-
10 day deadline to file a petition for review under 8 U.S.C. § 1252(b)(1). The Court explained
11 that withholding-only proceedings do not alter the finality of the underlying removal order.
12 Rather, the removal order remains final and enforceable, while the withholding-only
13 proceedings determine only whether the noncitizen may be removed to a particular country.
14

15 **D. Procedural Due Process and the Right to a Bond Hearing for Prolonged Detention**
16

17 40. The Fifth Amendment’s Due Process Clause protects “all ‘persons’ within the United
18 States, including [noncitizens], whether their presence here is lawful, unlawful, temporary,
19 or permanent.” *Zadvydas*, 533 U.S. at 693. “Freedom from imprisonment—from
20 government custody, detention, or other forms of physical restraint—lies at the heart of the
21 liberty that Clause protects.” *Id.* at 690.

22 41. Although the government may detain noncitizens pending removal proceedings, that
23 detention is justified only by the twin purposes of ensuring appearance at future
24 proceedings and protecting the community. *Zadvydas*, 533 U.S. at 690-91. When these
25 justifications are absent, or when detention becomes unreasonably prolonged, the
26 Constitution requires an individualized hearing to determine whether continued detention
27 is justified. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring) (as-
28

1 applied challenge may be brought if continued detention becomes unreasonable); *Nielsen*
2 *v. Preap*, 586 U.S. 392, 420 (2019) (same).

3 42. In *Jennings v. Rodriguez*, 583 U.S. 281, 312 (2018), the Supreme Court remanded for
4 consideration of the constitutional question whether due process requires bond hearings for
5 prolonged detention. The Ninth Circuit has since expressed “grave doubts that any statute
6 that allows for arbitrary prolonged detention without any process is constitutional or that
7 those who founded our democracy precisely to protect against the arbitrary deprivation of
8 liberty would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

9 43. In *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), the Ninth Circuit held that due process
10 requires the government to bear the burden of proving by clear and convincing evidence
11 that continued detention is justified. *Id.* at 1203-05. This standard applies equally to
12 mandatory detention. *Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024) (confirming
13 that the government bears the burden to establish by clear and convincing evidence that
14 detention is justified).

15 44. Courts in the Ninth Circuit regularly hold that detention exceeding six months is
16 presumptively prolonged and triggers due process protections. *See, e.g., Diep v. Wofford*,
17 No. 1:24 cv 01238 SKO, 2025 WL 604744, at *4 (E.D. Cal. Feb. 25, 2025) (ordering bond
18 hearing for noncitizen detained under 8 U.S.C. § 1226(c) for 13 months); *A.E. v. Andrews*,
19 No. 1:25 cv 00107 KES SKO, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (ordering
20 bond hearing for 20-month detention under § 1225(b)). Even under a case-by-case
21 reasonableness test, detention of more than six months strongly favors relief. *German*
22 *Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211-12 (3d Cir. 2020) (holding
23 that detention exceeding six months strongly favors relief).

24 45. The key factors in assessing whether detention has become unreasonable are 1) The total
25 length of detention to date; 2) the likely duration of future detention; 3) delays caused by
26 PETITION FOR WRIT OF HABEAS CORPUS
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1 the government; 4) delays caused by the detainee; and 5) whether the detainee has a
2 legitimate defense to removal. *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal.
3 2022); *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117 (W.D. Wash. 2019).

4 **E. Due Process Rights in Third-Country Removal**

5 46. To the extent Respondents may contend that removal to a third country is possible, the
6 Fifth Amendment entitles noncitizens to due process in removal proceedings, including the
7 right to notice and an opportunity to be heard. *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041
8 (9th Cir. 1999) (“Failing to notify individuals who are subject to deportation that they have
9 the right to apply...for withholding of deportation to the country to which they will be
10 deported violates both INS regulations and the constitutional right to due process.”).

12 47. In the context of third-country removals, courts have held that a noncitizen must be given
13 sufficient notice of the country of deportation to have a reasonable opportunity to raise and
14 pursue claims for withholding of deportation. *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009
15 (W.D. Wash. 2019).

17 48. ICE’s July 9, 2025, memorandum on third-country removals, which allows removal
18 without notice if diplomatic assurances exist and provides only a 24-hour window in other
19 cases, “contravenes Ninth Circuit law.” *Nguyen v. Scott*, 796 F. Supp. 3d 703, 728 (W.D.
20 Wash. 2025). It would be “impossible to comply both with Ninth Circuit precedent and the
21 policy.” *Id.* If Respondents identify a third country and attempt removal, Petitioner is
22 entitled to constitutionally adequate process.

23 **CLAIMS FOR RELIEF**

24 **COUNT I: VIOLATION OF 8 U.S.C. § 1231(a)(6) AND SUBSTANTIVE DUE** 25 **PROCESS - UNLAWFULLY PROLONGED DETENTION UNDER ZADVYDAS**

26 49. Petitioner incorporates by reference the allegations in the preceding paragraphs.

27 50. Petitioner is detained pursuant to 8 U.S.C. § 1231(a)(6) because he is subject to a final
28 order of removal. The Immigration Judge entered an order of removal on September 10,

2025. Chapa Decl. ¶ 18. That order became administratively final for detention purposes on the date it was entered notwithstanding Respondents' appeal of the CAT deferral grant. *Padilla-Ramirez*, 882 F.3d at 831; *Riley*, 606 U.S. at 266.

51. Petitioner has remained continuously detained by ICE since March 20, 2025. Chapa Decl. ¶¶ 14, 29. As of June 23, 2026, he has been detained for more than fifteen months. Chapa Decl. ¶ 29. His removal order became administratively final on September 10, 2025, and the six-month presumptively reasonable period recognized in *Zadvydas* expired on March 10, 2026. Chapa Decl. ¶¶ 30–32; *Zadvydas*, 533 U.S. at 701 (“six months is a presumptively reasonable period of detention”).

52. Petitioner has established good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. The Immigration Judge found that Petitioner faces a substantial risk of torture if removed to El Salvador and granted him deferral of removal under the Convention Against Torture. Chapa Decl. ¶¶ 16–17. As a result, Respondents are legally barred from removing Petitioner to El Salvador. Chapa Decl. ¶ 24.

53. Respondents have not rebutted Petitioner's showing. Respondents have not identified any third country willing to accept Petitioner for removal. Chapa Decl. ¶ 23. Because Petitioner cannot be removed to El Salvador and no third country has been identified, there is no significant likelihood that Petitioner can be removed in the reasonably foreseeable future. Chapa Decl. ¶ 25.

54. The only circumstance preventing Petitioner's release is Respondents' pending appeal of the CAT deferral grant. Chapa Decl. ¶¶ 21–22. But a pending administrative appeal does not itself establish a significant likelihood of removal, nor does it extend the period of detention authorized by § 1231(a)(6). Respondents have not secured travel documents, identified a receiving country, or provided any concrete timetable for Petitioner's removal.

1 55. Under *Zadvydas*, once a noncitizen establishes good reason to believe there is no
2 significant likelihood of removal in the reasonably foreseeable future, the burden shifts to
3 Respondents to rebut that showing with evidence. 533 U.S. at 701. Generalized assertions
4 that removal efforts are ongoing are insufficient. *Hoac*, 2025 WL 1993771, at *4. Likewise,
5 where Respondents cannot identify a receiving country, provide a timeline for removal, or
6 demonstrate meaningful progress toward obtaining travel documents, courts have found
7 continued detention unlawful. *Cavieres Gomez*, 2025 WL 3101994, at *5; *Hamedani*, 2026
8 WL 457425, at *4.

10 56. Those are precisely the circumstances presented here. Respondents cannot remove
11 Petitioner to El Salvador because of the CAT deferral, have not identified any third country
12 willing to receive him, and have produced no evidence that removal is significantly likely
13 in the reasonably foreseeable future. Chapa Decl. ¶¶ 21–25.

14 57. Because there is no significant likelihood of Petitioner’s removal in the reasonably
15 foreseeable future, his continued detention is no longer authorized by 8 U.S.C. § 1231(a)(6)
16 and violates the Due Process Clause of the Fifth Amendment. *Zadvydas*, 533 U.S. at 699.
17 This conclusion applies notwithstanding Petitioner’s criminal history. *Id.* at 684–86;
18 *Baltodano*, 815 F. Supp. 3d at 1199.

20 58. Petitioner is therefore entitled to a writ of habeas corpus directing his immediate release
21 under appropriate conditions of supervision pursuant to 8 U.S.C. § 1231(a)(3). As the
22 Supreme Court held, “[i]f removal is not reasonably foreseeable, the court should hold
23 continued detention unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S.
24 at 699–700.

26 **COUNT II**
27 **VIOLATION OF THE FIFTH AMENDMENT – SUBSTANTIVE DUE PROCESS –**
28 **PUNITIVE CIVIL DETENTION**

59. Petitioner incorporates by reference the allegations in the preceding paragraphs.

1 60. Immigration detention is civil rather than punitive and therefore is constitutional only
2 insofar as it reasonably serves Respondents' legitimate regulatory interests. *Zadvydas*, 533
3 U.S. at 690–91.

4 61. Respondents' asserted interest in detaining Petitioner is to effectuate his removal.
5 However, the Immigration Judge granted Petitioner deferral of removal under the
6 Convention Against Torture after finding that he faces a substantial risk of torture if
7 returned to El Salvador. Chapa Decl. ¶¶ 16–17. Accordingly, Respondents are legally
8 prohibited from removing Petitioner to El Salvador. Chapa Decl. ¶ 24.
9

10 62. Respondents have not identified any third country willing to accept Petitioner, have not
11 secured travel documents, and have not provided any concrete timetable demonstrating that
12 Petitioner's removal is reasonably foreseeable. Chapa Decl. ¶¶ 21–25.

13 63. Petitioner has remained continuously detained since March 20, 2025, and has now been
14 confined by ICE for more than fifteen months. Chapa Decl. ¶¶ 14, 29. Throughout that
15 period, Respondents have been unable to effectuate Petitioner's removal or demonstrate
16 that removal will occur within the reasonably foreseeable future.
17

18 64. Because Petitioner's removal is not reasonably foreseeable, continued detention no longer
19 advances Respondents' legitimate regulatory objective of effectuating removal. Instead,
20 Petitioner's confinement has become arbitrary, excessive in relation to its asserted purpose,
21 and indistinguishable from punitive detention prohibited by the Due Process Clause.
22 *Zadvydas*, 533 U.S. at 690–91.
23

24 65. Petitioner's criminal history does not alter this constitutional analysis. The Supreme Court
25 expressly held that § 1231(a)(6) does not authorize indefinite detention of noncitizens with
26 criminal convictions once removal is no longer reasonably foreseeable. *Id.* at 684–86.
27 Courts within the Ninth Circuit have likewise applied *Zadvydas* to order the release of
28

1 detained noncitizens with criminal histories where Respondents cannot demonstrate a
2 significant likelihood of removal. *Baltodano*, 815 F. Supp. 3d at 1199.

3 66. Respondents' continued detention of Petitioner therefore violates the substantive
4 component of the Fifth Amendment's Due Process Clause.

5 **COUNT III**
6 **VIOLATION OF THE FIFTH AMENDMENT**
7 **THIRD-COUNTRY REMOVAL WITHOUT CONSTITUTIONALLY ADEQUATE**
8 **PROCESS**

9 67. Petitioner incorporates by reference the allegations contained in the preceding paragraphs.

10 68. Because Petitioner has been granted deferral of removal under CAT, Respondents may not
11 remove him to El Salvador. Chapa Decl. ¶¶ 16–17, 24.

12 69. Respondents may represent that they are attempting to identify a third country to which
13 Petitioner may be removed. Chapa Decl. ¶¶ 21–25.

14 70. If Respondents identify a third country, the Fifth Amendment requires that Petitioner
15 receive notice of the proposed country of removal and a meaningful opportunity to seek
16 protection before removal occurs. *Andriasian*, 180 F.3d at 1041; *Aden*, 409 F. Supp. 3d at
17 1009.

18 71. ICE's current third-country removal procedures do not provide constitutionally adequate
19 process and have been held inconsistent with Ninth Circuit law. *Nguyen*, 796 F. Supp. 3d
20 at 728.

21 72. Because Respondents may state that they continue to seek a third country for Petitioner's
22 removal, there exists a concrete and imminent risk that Petitioner will be removed pursuant
23 to procedures that violate the Due Process Clause.

24 73. Petitioner is therefore entitled to declaratory and injunctive relief prohibiting Respondents
25 from removing him to any third country unless they first provide constitutionally adequate
26 notice and an opportunity to pursue any available protection claims.
27
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COUNT IV
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT — ARBITRARY, CAPRICIOUS, AND UNLAWFUL AGENCY ACTION

74. Petitioner incorporates by reference the allegations in the preceding paragraphs.

75. The Administrative Procedure Act (“APA”) requires a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

76. Respondents continue to detain Petitioner despite knowing that: (1) he cannot be removed to El Salvador because of the CAT deferral; (2) no third country has agreed to accept him; (3) no travel documents have been secured; and (4) Respondents cannot identify any significant likelihood that removal will occur in the reasonably foreseeable future. Chapa Decl. ¶¶ 21–25.

77. Respondents also failed to respond to Petitioner’s request for release submitted on May 23, 2025, despite receiving evidence concerning Petitioner’s rehabilitation, family support, medical conditions, and proposed release plan. Chapa Decl. ¶¶ 36–38.

78. Respondents have failed to provide a reasoned explanation demonstrating why continued detention remains authorized under 8 U.S.C. § 1231(a)(6) despite the absence of any realistic prospect of removal. Their continued detention decision is therefore arbitrary, capricious, and contrary to law. *See, e.g., Kiwana v. LaRose*, No. 3:25-CV-3678-JES-SBC, 2026 WL 102661, at *2 (S.D. Cal. Jan. 14, 2026).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a writ of habeas corpus, ordering Respondents to immediately release Petitioner from custody, subject to reasonable conditions of supervision under 8 U.S.C. § 1231(a)(3) and 8 C.F.R. § 241.5;

1 B. Declare that Petitioner's re-detention was unlawful and in violation of his right to procedural
2 due process;

3 C. Enjoin Respondents from re-detaining Petitioner absent:

- 4 • A showing of changed circumstances that make removal significantly likely in the
5 reasonably foreseeable future; and
6 • A pre-deprivation hearing before a neutral decisionmaker at which Respondents bear the
7 burden of justifying detention;
8

9 D. Enjoin Respondents from removing Petitioner to a third country without:

- 10 • Written notice identifying the country of removal, provided to Petitioner and his counsel
11 in a language Petitioner understands;
12 • A meaningful opportunity, of at least 10 days, to raise fear-based claims for protection;
13 • If Petitioner demonstrates reasonable fear, reopening of his immigration proceedings for a
14 full hearing before an immigration judge; and
15 • If Petitioner is not found to have demonstrated reasonable fear, a meaningful opportunity,
16 of at least 15 days, to seek reopening of his immigration proceedings;
17

18 E. Award Petitioner his reasonable costs and attorney's fees pursuant to the Equal Access to Justice
19 Act, 28 U.S.C. § 2412; and

20 F. Grant such other and further relief as the Court deems just and proper.

21 Date: June 24, 2026

Respectfully Submitted,

22 /s/ Prerna P. Lal
23 Prerna Preshika Lal

24 *Attorney for Petitioner*
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CERTIFICATE OF SERVICE

I, Prerna Preshika Lal, declare that I electronically filed the foregoing document with the Clerk of Court via CM/ECF on June 25, 2026 which will serve electronic notice upon all counsel of record listed in the ECF docket.

Date: June 25, 2026

Respectfully Submitted,

/s/ Prerna P. Lal
Prerna Preshika Lal
SBN: 354786
Lal Legal APLC
2001 Addison St STE 300
Berkeley CA 94704
(800) 552-5616
prerna@lallegal.com

Attorney for Petitioner