

**Hannah Basalone**  
Cal. Bar No. 368332  
Federal Defenders of San Diego, Inc.  
225 Broadway, Suite 900  
San Diego, California 92101-5030  
Telephone: (619) 234-8467  
Facsimile: (619) 687-2666  
Hannah\_Basalone@fd.org

Attorneys for Mr. Rivera-Gonzalez



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

**JESUS JULIAN RIVERA-GONZALEZ,**

**CASE NO.: '26CV3814 CAB BJW**

Petitioner,

v.

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

Respondents.

**Petition for Writ  
of  
Habeas Corpus**

**[28 U.S.C. § 2241]**

1 INTRODUCTION

2 On August 25, 2011, Jesus Julian Rivera-Gonzalez received withholding of  
3 removal to his native country of Mexico. In March of this year, ICE detained him,  
4 purportedly to remove him to a third country. But ICE has made no progress in  
5 doing so. It does not appear that ICE has even asked a third country to take him.  
6 Because “there is no significant likelihood of removal in the reasonably  
7 foreseeable future,” Jesus Julian Rivera-Gonzalez’s detention is no longer  
8 statutorily authorized, and this Court must order his immediate release. *Zadvydas*  
9 *v. Davis*, 533 U.S. 678 (2001).

10 STATEMENT OF FACTS

11 **I. Mr. Rivera-Gonzalez received withholding of removal, and there is no**  
12 **evidence of any progress in sending him to a third country.**

13 Mr. Rivera-Gonzalez was born in Mexico . Declaration of  
14 Jesus Julian Rivera-Gonzalez, Exhibit A at ¶ 1. He came into the United States  
15 without inspection around 33 years ago. *Id.* at ¶ 1. He recalls being detained  
16 around 2000, but he does not recall the exact circumstances around that detention  
17 and was ultimately released. *Id.* at ¶ 2. An immigration judge awarded him  
18 withholding of removal on August 25, 2011. *Id.* at ¶ 3. Mr. Rivera-Gonzalez  
19 applied for a work permit and has worked for many years. *Id.* at ¶ 4. He has  
20 always paid his taxes. *Id.* at ¶ 4.

21 On March 23, 2026, Mr. Rivera-Gonzalez was on his way to pick up a  
22 friend to bring the friend to a doctor’s appointment. *Id.* at ¶ 5. When he arrived at  
23 the friend’s house, several unmarked cars surrounded him. *Id.* at ¶ 5. Federal  
24 agents in plain clothes rushed up to him and arrested him. *Id.* at ¶ 5. They told him  
25 they were arresting him because he was supposed to be deported. *Id.* at ¶ 5.

26 Agents told Mr. Rivera-Gonzalez they were looking for a third country to  
27 remove him to. *Id.* at ¶ 6. But since being detained in March, he has not received  
28 any update about this. *Id.* at ¶ 6. He has sent messages to his deportation officer

1 asking for updates, but the officer only tells him he's "working on things." *Id.* at  
2 ¶ 6. No one has asked him to fill out any paperwork for third-country removal or  
3 to talk to the consulate of any third country. *Id.* Nor can Mr. Rivera-Gonzalez  
4 think of any reason why a third country would take him. He is not a citizen of any  
5 country other than Mexico. *Id.* at ¶ 6. He does not have legal status in any other  
6 country. *Id.* There is therefore no apparent prospect of his removal from the  
7 United States.

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. Rivera-Gonzalez to a  
11 third country in the reasonably foreseeable future, something could unexpectedly  
12 change to make third-country removal plausible. If so, Mr. Rivera-Gonzalez  
13 would be in 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  
27 took in hundreds of deportees from countries in Africa and Central Asia and  
28 imprisoned them in hotels, a jungle camp, and a detention center. *Id.*; Vanessa

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

12 On June 23 and July 3, 2025, the Supreme Court issued a stay of a national  
13 class-wide preliminary injunction issued in *D.V.D. v. U.S. Department of*  
14 *Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968, at \*1, 3 (D.  
15 Mass. Apr. 18, 2025), which required ICE to follow statutory and constitutional  
16 requirements before removing an individual to a third country. *U.S. Dep't of*  
17 *Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (mem.); *id.*, No. 24A1153, 2025  
18 WL 1832186 (U.S. July 3, 2025).<sup>1</sup> On July 9, 2025, ICE rescinded previous  
19 guidance meant to give immigrants a “‘meaningful opportunity’ to assert claims  
20 for protection under the Convention Against Torture (CAT) before initiating  
21 removal to a third country” like the ones just described. Exh. B.

---

23 <sup>1</sup> 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. Rivera-Gonzalez. *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 Under the new guidance, ICE may remove any immigrant to a third country  
2 “without the need for further procedures,” as long as—in the view of the State  
3 Department—the United States has received “credible” “assurances” from that  
4 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails  
5 to credibly promise not to persecute or torture releasees, ICE may still remove  
6 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours’  
7 notice. But “[i]n exigent circumstances,” a removal may take place in as little as  
8 six hours, “as long as the alien is provided reasonably means and opportunity to  
9 speak with an attorney prior to the removal.” *Id.*

10 Upon serving notice, ICE “will not affirmatively ask whether the alien is  
11 afraid of being removed to the country of removal.” *Id.* (emphasis original). If the  
12 noncitizen “does not affirmatively state a fear of persecution or torture if removed  
13 to the country of removal listed on the Notice of Removal within 24 hours, [ICE]  
14 may proceed with removal to the country identified on the notice.” *Id.* at 2. If the  
15 noncitizen “does affirmatively state a fear if removed to the country of removal”  
16 then ICE will refer the case to U.S. Citizenship and Immigration Services  
17 (“USCIS”) for a screening for eligibility for withholding of removal and  
18 protection under the Convention Against Torture (“CAT”). *Id.* at 2. “USCIS will  
19 generally screen within 24 hours.” *Id.* If USCIS determines that the noncitizen  
20 does not meet the standard, the individual will be removed. *Id.* If USCIS  
21 determines that the noncitizen has met the standard, then the policy directs ICE to  
22 either move to reopen removal proceedings “for the sole purpose of determining  
23 eligibility for [withholding of removal protection] and CAT” or designate another  
24 country for removal. *Id.*

#### 25 CLAIMS FOR RELIEF

26 This Court should grant this petition and order Mr. Rivera-Gonzalez’s  
27 immediate release, because there is “no significant likelihood of removal in the  
28

1 reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The  
2 Court should also enjoin his removal without due process.

3 **I. Count 1: Mr. Rivera-Gonzalez’s detention violates *Zadvydas* and**  
4 **8 U.S.C. § 1231.**

5 **A. Legal background**

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

22 If federal law were understood to allow for “indefinite, perhaps permanent,  
23 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at  
24 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by  
25 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

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

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

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

11 **A. The six-month grace period has long expired.**

12 As an initial matter, the six-month grace period has ended. The *Zadvydas*  
13 grace period lasts for “*six months* after a final order of removal—that is, *three*  
14 *months* after the statutory removal period has ended.” *Kim Ho Ma v. Ashcroft*, 257  
15 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Rivera-Gonzalez was ordered  
16 removed on August 25, 2011. Exh. A at ¶ 3. Accordingly, his 90-day removal  
17 period began then. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period will thus  
18 expire six months after the removal period began, on February 25, 2012. The  
19 threshold requirement has therefore been met years ago.

20 **B. There is good reason to believe that there is no significant**  
21 **likelihood of Mr. Rivera-Gonzalez removal in the reasonably**  
**foreseeable future.**

22 Because the six-month grace period has passed, this Court must evaluate  
23 Mr. Rivera-Gonzalez’s *Zadvydas* claim using the burden-shifting framework. At  
24 the first stage of the framework, there must be “good reason to believe that there  
25 is no significant likelihood of removal in the reasonably foreseeable future.”  
26 *Zadvydas*, 533 U.S. at 701. This standard can be broken down into three parts.

27 **“Good reason to believe.”** The “good reason to believe” standard is a  
28 relatively forgiving one. “A petitioner need not establish that there exists no

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

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

**“In the reasonably foreseeable future.”** This component of the test focuses on when Mr. Rivera-Gonzalez will likely be removed: Continued detention is permissible only if removal is likely to happen “in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s removal efforts. If the Court has “no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at \*3 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F.

1 Supp. 3d 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that  
2 Mr. Rivera-Gonzalez “would *eventually* receive” a travel document to a third  
3 country, he can still meet his burden by giving good reason to anticipate  
4 sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at \*2 (E.D.  
5 Mich. Nov. 14, 2016).

6 Mr. Rivera-Gonzalez has very good reason to doubt his removal. ICE has  
7 made no progress whatsoever in removing him, despite having years months to do  
8 so. And there is an obvious explanation for ICE’s inability to remove him: The  
9 IJ’s order prohibits Mr. Rivera-Gonzalez’s removal to his home country of  
10 Mexico, “which is the only country to which he has a claim to citizenship or legal  
11 immigration status.” *Villanueva*, 2025 WL 2774610, at \*10. “This substantially  
12 increases the difficulty of removing him.” *Munoz-Saucedo*, 789 F. Supp. 3d at  
13 398.

14 That’s because “alternative-country removal is rare.” *Johnson v. Guzman-*  
15 *Chavez*, 594 U.S. 523, 537 (2021). Between 2020 and 2023, data apparently show  
16 that “ICE removed . . . only *five* non-citizens granted withholding or CAT relief to  
17 alternative countries.” *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398  
18 (D.N.J. 2025) (emphasis original). In fiscal year 2017, there were at most 21  
19 people of the thousands with withholding of removal deported to *any* country; that  
20 number includes dual citizens who only received withholding from one of their  
21 two other countries of origin. See American Immigration Council & National  
22 Immigrant Justice Center, *The Difference Between Asylum and Withholding of*  
23 *Removal*, 7 (Oct. 2020)<sup>2</sup> (cited in *Guzman-Chavez*, 594 U.S. at 537). That means  
24 that “less than two percent of those granted withholding of removal were deported  
25 to a third country.” *Puertas-Mendoza*, 2025 WL 3142089 at \*3 (citing American  
26

27 <sup>2</sup> Available 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-removal.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the-difference-between-asylum-and-withholding-of-removal.pdf).

Immigration Council & National Immigrant Justice Center, *supra*).

“[T]hat is not simply a matter of United States policy—foreign governments ‘routinely deny’ requests to receive people who lack a connection to the would-be receiving country.” *Puertas-Mendoza*, 2025 WL 3142089 at \*3.

“The reason so few people are deported to third countries is because,” while “customary international law holds that a country has a duty to accept the return of its nationals,” usually, “countries have no incentive to accept non-citizens.” American Immigration Council & National Immigrant Justice Center, *supra*, at 7.

Because third country removal is exceedingly rare, and ICE has made no progress in removing Mr. Rivera-Gonzalez to one over the last several months or years, Mr. Rivera-Gonzalez has met his initial burden. Thus, unless the government can prove a “significant likelihood of removal in the reasonably foreseeable future,” Mr. Rivera-Gonzalez must be released. *Zadvydas*, 533 U.S. at 701.

**II. Count 2: ICE may not remove Mr. Rivera-Gonzalez to a third country without adequate notice and an opportunity to be heard.**

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

1           **A.     Legal background**

2           U.S. law enshrines protections against dangerous and life-threatening  
3 removal decisions. By statute, the government is prohibited from removing an  
4 immigrant to any third country where they may be persecuted or tortured, a form  
5 of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A).  
6 The government “may not remove [a noncitizen] to a country if the Attorney  
7 General decides that the [noncitizen’s] life or freedom would be threatened in that  
8 country because of the [noncitizen’s] race, religion, nationality, membership in a  
9 particular social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16,  
10 1208.16. Withholding of removal is a mandatory protection.

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

20           To comport with the requirements of due process, the government must  
21 provide notice of the third country removal and an opportunity to respond. Due  
22 process requires “written notice of the country being designated” and “the  
23 statutory basis for the designation, i.e., the applicable subsection of § 1231(b)(2).”  
24 *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v.*  
25 *U.S. Dep’t of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at \*1  
26 (D. Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.  
27 1999).

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

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

24 “[L]ast minute” notice of the country of removal will not suffice,  
25 *Andriasian*, 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App’x 724 (9th  
26 Cir. 2016), and for good reason: To have a meaningful opportunity to apply for  
27 fear-based protection from removal, immigrants must have time to prepare and  
28 present relevant arguments and evidence. Merely telling a person where they may

1 be sent, without giving them a chance to look into country conditions, does not  
2 give them a meaningful chance to determine whether and why they have a  
3 credible fear.

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

7 The policies in the June 6, 2025 memo do not adhere to these requirements.  
8 First, under the policy, ICE need not give immigrants *any* notice or hearing before  
9 removing them to a country that—in the State Department’s estimation—has  
10 provided “credible” “assurances” against persecution and torture. Exh. B. By  
11 depriving immigrants of any chance to challenge the State Department’s view,  
12 this policy violates “[t]he essence of due process,” “the requirement that a person  
13 in jeopardy of serious loss be given notice of the case against him and opportunity  
14 to meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

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

**III. 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. Rivera-Gonzalez hereby requests such a hearing on any material, disputed facts.

**IV. 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 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;
  - b. a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection prior to removal;
  - c. if Petitioner is found to have demonstrated "reasonable fear" of removal to the country, Respondents must move to reopen Petitioner's immigration proceedings;
  - d. if Petitioner is not found to have demonstrated a "reasonable fear" of removal to the country, a meaningful opportunity, and a minimum of fifteen days, for the Petitioner to seek reopening of his immigration proceedings.

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

2  
3                               Respectfully submitted,

4     Dated: June 30, 2026

*s/ Hannah Basalone*

**Hannah Basalone**

Federal Defenders of San Diego, Inc.

Email: hannah\_basalone@fd.org

**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.

Date: 6/30/2026

/s/ Hannah Basalone  
Hannah Basalone

# Exhibit A

**HANNAH BASALONE**  
Federal Defenders of San Diego, Inc.  
225 Broadway, Suite 900  
San Diego, California 92101-5030  
Telephone: (619) 234-8467  
Facsimile: (619) 687-2666  
Hannah\_Basalone@fd.org

Attorneys for Mr. Rivera-Gonzalez

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

**JESUS JULIAN RIVERA-GONZALEZ,**

Petitioner,

v.

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

Respondents.

CIVIL CASE NO.: **'26CV3814 CAB BJW**

**Declaration of Jesus Julian Rivera-  
Gonzalez in Support of Petition  
for a Writ of Habeas Corpus**

1  
2 I, Jesus Julian Rivera-Gonzalez, declare:

- 3 1. I was born in Mexico . I entered the United States without  
4 inspection around 33 years ago.
- 5 2. I was previously detained around 2000, but I don't recall the exact  
6 circumstances around that detention. I was ultimately released.
- 7 3. On August 25, 2011, I was granted withholding of removal to Mexico.
- 8 4. After receiving withholding, I applied for and received a work permit. I  
9 worked very hard. I have always paid my taxes. I have lived in Palm Springs  
10 for over 20 years.
- 11 5. On March 23, 2026, I was on my way to pick up a friend to bring him to a  
12 doctor's appointment. When I arrived at my friend's house, several  
13 unmarked cars surrounded my car. Several federal agents in plain clothes  
14 rushed up to me and arrested me. They told me they were arresting me  
15 because I was supposed to be deported.
- 16 6. Agents told me they are looking for a third country to send me to. Since being  
17 detained, I have not gotten any update about travel documents or any  
18 potential third country I might be removed to. I have sent messages to my  
19 deportation officer asking for updates, and he just tells me he is working on  
20 things. I have not talked to anyone about any specific countries they might  
21 try to send me to.
- 22 7. I have no pending case and have not had any court hearing since I have been  
23 detained.
- 24 8. I am not a citizen of any country besides Mexico.
- 25 9. I have been detained for the past three months. I lost my house and have no  
26 money to hire an attorney.

27  
28 Date: June 25, 2026

Signed: /s/ Hannah Basalone