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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

YAMRAJ KHADKA,

Petitioner,

v.

MARKWAYNE MULLIN ET AL.,

Respondents.

CASE NO. 1:26-CV-05225-JLT-CDB

RESPONSE TO ORDER TO SHOW CAUSE

INTRODUCTION

The petition should be denied or dismissed without prejudice. Petitioner Yamraj Khadka is detained under 8 U.S.C. § 1231 following an IJ's grant of withholding to Nepal and waiver of appeals on December 31, 2025, Exh. B at 7–8. The Supreme Court has confirmed that § 1231 governs detention for noncitizens granted withholding of removal. *Johnson v. Guzman Chavez*, 594 U.S. 523, 533–35 (2021); *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 580–81 (2022)).

Immigration and Customs Enforcement (ICE) has secured third-country acceptance,

Because Khadka seeks to bypass administrative channels and to block removal, prudential exhaustion and jurisdictional limits are dispositive. *Laing v. Ashcroft*, 370 F.3d 994, 997–98 (9th Cir. 2004).

FACTUAL BACKGROUND

Khadka, a native of Nepal, entered the United States in January 2025, was placed in removal proceedings, and sought protection based on political persecution. *Petition* ¶¶ 25–31. On December 31, 2025, the IJ denied asylum but granted withholding of removal to Nepal; both parties waived appeal, rendering the order administratively final that day. *Petition* ¶ 32; Exh. B at 1–4.

ICE continued detention under § 1231 and conducted custody processing, including notice and interview on June 23, 2026. *Petition* ¶¶ 33–37.

On April 20, 2026, Khadka sought a bond hearing; the IJ denied for lack of jurisdiction because detention arises under § 1231 during withholding-only and third-country-removal efforts. Petition ¶¶ 35; Exh. B at 5.

ICE has since obtained third-country acceptance from the Central African Republic, completed travel authorization, and scheduled removal for the last week of July; the only current obstacle is the Court's do-not-transfer order. *Motion to modify*, Doc. 7; *Karan Decl.*, Doc. 7-1 ¶¶ 5–7.

ARGUMENT

A. The *Mathews* test does not require a bond hearing on this record.

The *Mathews* due process test weighs the private interest, the risk of erroneous deprivation and the probable value of additional safeguards, and the Government's interests [illegible] 424 U.S. 319, 335 (1976). Khadka is detained under § 1231 following

On this record—final order, proper § 1231 custody, third-country acceptance, travel authorization obtained, and scheduled removal—additional procedures have little value, and the *Mathews* test does not demand a judicially created bond hearing. The Government's interests are heightened where travel authorization has been obtained and removal has a definite termination point, which the regulations expressly recognize. 8 C.F.R. § 241.4(g)(2)–(3).

B. Exhaustion and jurisdiction foreclose the petition; § 1231 governs, removal is reasonably foreseeable, and *Hoang* is distinguishable.

The Ninth Circuit requires adherence to applicable administrative channels and forecloses injunctive habeas relief that halts removal; courts cannot do indirectly what Congress forbids directly. *Rauda v. Jennings*, 55 F.4th 773, 777–78 (9th Cir. 2022). Section 1231 governs Khadka's detention because the IJ's order became administratively final on December 31, 2025, and detention during third-country-removal processing remains under § 1231. *Guzman Chavez*, 594 U.S. at 531–35. *Zadvydas* does not compel release where removal is reasonably foreseeable; acceptance by a third country and travel authorization obtained defeat any claim of non-foreseeability. 533 U.S. at 701; 8 C.F.R. § 241.4(g)(2)–(3)).

This case is materially distinct from *Hoang*, where respondents conceded they could not show removal was foreseeable, had identified no third country, and faced an expired passport, with no scheduled removal window. *Hoang v. Chestnut*, 2026 WL 1875880, at *2, *5–6 (E.D. Cal. June 30, 2026), adopted by 2026 WL 1965614 (E.D. Cal. July 7, 2026). By contrast, in this case ICE has secured third-country acceptance and completed travel authorization, placed Khadka on the manifest, and scheduled removal for the last week of [illegible] is this Court's do-not-transfer order. *Karan Decl.*, Doc. 7-1 ¶¶ 5–7.

Dated: July 16, 2026

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By: /s/ JONATHAN WILLIAMS
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