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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAMSHID MORADI,

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.: '26CV4292 JES MMP

Petition for Writ of Habeas Corpus

[28 U.S.C. § 2241]

INTRODUCTION

On April 21, 2026, Mr. Moradi received withholding of removal under the United Nations Convention Against Torture ("CAT withholding") to his native country of Iran. ICE has continued to detain him, purportedly to remove him to a third country. But ICE has made no progress in doing so. It does not appear that ICE has even asked a third country to take him. Because "there is no significant likelihood of removal in the reasonably foreseeable future," Mr. Moradi's detention is no longer statutorily authorized, and this Court must order his immediate release. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

STATEMENT OF FACTS

I. Mr. Moradi received CAT withholding of removal, and there is no evidence of any progress in sending him to a third country.

Mr. Moradi was born in Iran on [redacted]. Declaration of Jamshid Moradi, Exhibit A at ¶ 1. Because Mr. Moradi [redacted]. *Id.* at ¶ 1. He fled Iran after being [redacted]. *Id.* at ¶ 1. He came to the United States on March 18, 2025. *Id.* at ¶ 2. He was immediately arrested and detained. *Id.* at ¶ 2. Mr. Moradi remains detained to this day. *Id.* at ¶ 2.

On April 21, 2026, an immigration judge awarded Mr. Moradi CAT withholding of removal. *Id.* at ¶ 3. Since this grant of CAT withholding, Mr. Moradi has remained at Otay Mesa Detention Center. *Id.* at ¶ 3.

And ICE has yet to identify a third country that might take Mr. Moradi. *Id.* at ¶ 4. No one has asked him to fill out any paperwork for third-country removal or to talk to the consulate of any third country. *Id.* at ¶ 4. Nor can Mr. Moradi think of any reason why a third country would take him. *Id.* at ¶ 5. He is not a citizen of any country other than Iran. *Id.* at ¶ 5. He does not have legal status in

any other country. *Id.* There is therefore no apparent prospect of his removal from the United States.

II. The government is carrying out deportations to third countries without providing sufficient notice and opportunity to be heard.

Though it is highly unlikely that ICE can remove Mr. Moradi to a third country in the reasonably foreseeable future, something could unexpectedly change to make third-country removal plausible. If so, Mr. Moradi would be in grave danger of removal without due process.

The Trump administration reportedly has negotiated with at least 58 countries to accept deportees from other nations. Edward Wong et al, *Inside the Global Deal-Making Behind Trump's Mass Deportations*, N.Y. Times, June 25, 2025. On June 25, 2025, the New York Times reported that seven countries—Costa Rica, El Salvador, Guatemala, Kosovo, Mexico, Panama, and Rwanda—had agreed to accept deportees who are not their own citizens. *Id.* Since then, ICE has carried out highly publicized third country deportations to South Sudan and Eswatini.

The Administration has reportedly negotiated with countries to have many of these deportees imprisoned in prisons, camps, or other facilities. The government paid El Salvador about $5 million to imprison more than 200 deported Venezuelans in a maximum-security prison notorious for gross human rights abuses, known as CECOT. *See id.* In February, Panama and Costa Rica took in hundreds of deportees from countries in Africa and Central Asia and imprisoned them in hotels, a jungle camp, and a detention center. *Id.*; Vanessa Buschschluter, *Costa Rican court orders release of migrants deported from U.S.*, BBC (Jun. 25, 2025). On July 4, 2025, ICE deported eight men, including one pre-1995 Vietnamese refugee, to South Sudan. *See* Wong, *supra*. On July 15, ICE deported five men to the tiny African nation of Eswatini, including one man from Vietnam, where they are reportedly being held in solitary confinement. Gerald

Imray, *3 Deported by US held in African Prison Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2, 2025). Many of these countries are known for human rights abuses or instability. For instance, conditions in South Sudan are so extreme that the U.S. State Department website warns Americans not to travel there, and if they do, to prepare their will, make funeral arrangements, and appoint a hostage-taker negotiator first. *See* Wong, *supra*.

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

Under the new guidance, ICE may remove any immigrant to a third country "without the need for further procedures," as long as—in the view of the State Department—the United States has received "credible" "assurances" from that country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails

[1] Though the Supreme Court's order was unreasoned, the dissent noted that the government had sought a stay based on procedural arguments applicable only to class actions. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 2160 (2025) (Sotomayor, J., dissenting). Thus, "even if the Government [was] correct that classwide relief was impermissible" in *D.V.D.*, Respondents still "remain[] obligated to comply with orders enjoining [their] conduct with respect to individual plaintiffs" like Mr. Moradi. *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).

to credibly promise not to persecute or torture releasees, ICE may still remove immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours' notice. But "[i]n exigent circumstances," a removal may take place in as little as six hours, "as long as the alien is provided reasonably means and opportunity to speak with an attorney prior to the removal." *Id.*

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

CLAIMS FOR RELIEF

Zadvydas v. Davis holds that immigration statutes do not authorize the government to detain immigrants like Mr. Moradi, for whom there is "no significant likelihood of removal in the reasonably foreseeable future." 533 U.S. 678, 701 (2001). Though *Zadvydas* recognized that detention pending removal is "presumptively reasonable" for six months after a removal order becomes final, *id.*, many courts have concluded that that presumption is rebuttable. Mr. Moradi

has rebutted the presumption here, proving that he will not be removed in the reasonably foreseeable future. Regardless, ICE may not remove him to a third country without notice and an adequate opportunity to make a fear-based claim. This Court should therefore grant the petition on both counts.

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

A. Legal background

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

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

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

Courts must use a burden-shifting framework to decide whether detention remains authorized. First, the petitioner must make a prima facie case for relief: He must prove that there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

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

A. Courts across the country agree that the six-month presumption is rebuttable.

Mr. Moradi is different from many *Zadvydas* petitioners in that he has not been detained for six months after his removal order became final. But as *Zadvydas* makes clear, detention is only "*presumptively* reasonable" for six months. 533 U.S. at 701 (emphasis added). Numerous courts have concluded that the six-month presumption is "just that, a presumption, one that can be rebutted upon a showing that removal is *not* reasonably foreseeable." *Cruz Medina v. Noem*, No. 25-CV-1768-ABA, 2025 WL 2306274, at *7 n.5 (D. Md. Aug. 11, 2025); *accord Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 397 (D.N.J. 2025); *Zavvar v. Scott*, No. CV 25-2104-TDC, 2025 WL 2592543, at *5 (D. Md. Sept. 8, 2025); *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1093 (C.D. Cal. 2020); *Sweid v. Cantu*, No. CV-25-03590-PHX-DWL (CDB), 2025 WL 3033655, at *3 (D. Ariz. Oct. 30, 2025); *Puertas Mendoza v. Bondi*, No. SA-25-CA-00890-XR, 2025 WL 3142089, at *2 (W.D. Tex. Oct. 22, 2025); *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 641 n.6 (D. Mass. 2018); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703, 707 (S.D. Tex.

2020); *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *9 (S.D. Tex. Sept. 26, 2025); *Douglas v. Baker*, No. 25-CV-2243-ABA, 2025 WL 2687354, at *3 (D. Md. Sept. 19, 2025); *Jamal v. Sessions*, No. 5:18-06015-CV-RK, 2018 WL 1440609, at *2 (W.D. Mo. Mar. 22, 2018). "A close reading of *Zadvydas*" refutes any attempt to turn that presumption into a bright-line rule. *Cesar*, 542 F. Supp. 2d at 902.

Prohibiting all detention challenges before the six-month mark would go against *Zadvydas*'s most fundamental holding: that "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Zadvydas*, 533 U.S. at 699–700. "The fundamental principle in *Zadvydas* . . . is that where removal is not reasonably foreseeable, detention is unconstitutional." *Cesar*, 542 F. Supp. 2d at 902. "*Zadvydas* unequivocally held that 'once removal is no longer reasonably foreseeable, continued detention is no longer authorized.'" *Puerta Mendoza*, 2025 WL 3142089, at *2. It follows that "[i]f there comes a point during the six-month period at which it is 'no longer reasonably foreseeable' that a person will actually be removed, then detention 'is no longer authorized,'" and the petitioner must be released. *Cruz Medina*, 2025 WL 2306274, at *6 (quoting *Zadvydas*, 533 U.S. at 699–700). To hold otherwise would be to render *Zadvydas* "internally inconsistent." *Zavvar*, 2025 WL 2592543, at *5.

Zadvydas did not back away from that fundamental principle when describing the six-month presumption. "At no point did the *Zadvydas* Court preclude a noncitizen from challenging their detention before the end of the presumptively reasonable six-month period." *Trinh*, 466 F. Supp. 3d at 1092. To the contrary, the Court said that it was "adopting a *presumption* of reasonableness before the six-month period expires. A presumption is just that: a default, a starting point." *Cruz Medina*, 2025 WL 2306274, at *5. "The *Zadvydas* Court did not say that the presumption is irrebuttable, and there is nothing inherent in the operation of the presumption itself that requires it to be irrebuttable." *Cesar*, 542 F. Supp. 2d

at 903; *accord Sweid*, 2025 WL 3033655, at *3 ("*Zadvydas* did not hold that this presumption is conclusive in all cases and under all sets of facts.").

Furthermore, when introducing the six-month presumption, the Court "noted that such presumptions are intended to 'guide lower court determinations.'" *Zavvar*, 2025 WL 2592543, at *5. A "guide" is "not a categorical prohibition on claims challenging detention less than six months." *Trinh*, 466 F. Supp. 3d at 1093.

Finally, *Zadvydas* analogized to the "similar" rule in *County of Riverside v. McLaughlin,* 500 U.S. 44, 56–58 (1991), in which the Court "adopt[ed] [a] presumption, based on lower court estimate of time needed to process arrestee, that 48–hour delay in probable-cause hearing after arrest is reasonable, hence constitutionally permissible." *Zadvydas*, 533 U.S. at 701 (describing *Riverside*). *Riverside*'s 48-hour rule "is a rebuttable presumption." *Cesar*, 542 F. Supp. 2d at 904. It stands to reason that "the *Zadvydas* presumption, like the *Riverside* presumption, is rebuttable." *Munoz-Saucedo*, 789 F. Supp. 3d at 397.

In short, then, "[t]he presumption of reasonableness is the default, but if a person 'can prove' that his removal is not reasonably foreseeable, then he can overcome that presumption." *Munoz-Saucedo*, 789 F. Supp. 3d at 397 (quoting *Riverside*, 500 U.S. at 56).

B. There is good reason to believe that there is no significant likelihood of Mr. Moradi's removal in the reasonably foreseeable future.

Because Mr. Moradi must rebut the six-month presumption, he bears the burden to show that "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. This standard can be broken down into three parts.

"Good reason to believe." The "good reason to believe" standard is a 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. Moradi 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. Moradi 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. Supp. 3d 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Moradi "would *eventually* receive" a travel document, he can still meet his burden by giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

Mr. Moradi has very good reason to doubt his removal. ICE has made no progress whatsoever in removing him, despite having over three months—the 90-day removal period granted by statute—to do so. And there is an obvious explanation for ICE's inability to remove him: The IJ's order prohibits Mr. Moradi's removal to his home country of Iran, "which is the only country to which he has a claim to citizenship or legal immigration status." *Villanueva*, 2025 WL 2774610, at *10. "This substantially increases the difficulty of removing him." *Munoz-Saucedo*, 789 F. Supp. 3d at 398. This, coupled with his lack of a passport, makes his removal incredibly difficult. ICE has known since the date of Mr. Moradi's removal order that if they were going to be able to remove him, it would need to be to a third country and not to Iran. And yet there has been no progress.

That's because "alternative-country removal is rare." *Johnson v. Guzman-Chavez*, 594 U.S. 523, 537 (2021). Between 2020 and 2023, data apparently show that "ICE removed . . . only *five* non-citizens granted withholding or CAT relief to alternative countries." *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398 (D.N.J. 2025) (emphasis original). In fiscal year 2017, there were at most 21 people of the thousands with withholding of removal deported to *any* country; that number includes dual citizens who only received withholding from one of their two other countries of origin. *See* American Immigration Council & National Immigrant Justice Center, *The Difference Between Asylum and Withholding of Removal*, 7 (Oct. 2020)[2] (cited in *Guzman-Chavez*, 594 U.S. at 537). That means that "less than

[2]Available at https://www.americanimmigrationcouncil.org/wp-

two percent of those granted withholding of removal were deported to a third country." *Puertas-Mendoza*, 2025 WL 3142089 at *3 (citing American 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. Moradi to one over the last three months, Mr. Moradi has met his initial burden. Thus, unless the government can prove a "significant likelihood of removal in the reasonably foreseeable future," Mr. Moradi must be released. *Zadvydas*, 533 U.S. at 701.

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

There is therefore no current likelihood that Mr. Moradi 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. Moradi 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

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for office). And if ICE did suddenly prove able to remove Mr. Moradi to a third country, it would do so under a policy that violates the Fifth Amendment, the Convention Against Torture, and implementing regulations.

A. Legal background

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

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

To comport with the requirements of due process, the government must provide notice of the third country removal and an opportunity to respond. Due process requires "written notice of the country being designated" and "the statutory basis for the designation, i.e., the applicable subsection of § 1231(b)(2)." *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S.*

Dep't of Homeland Sec., No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

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

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

"[L]ast minute" notice of the country of removal will not suffice, *Andriasian*, 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App'x 724 (9th Cir. 2016), and for good reason: To have a meaningful opportunity to apply for fear-based

protection from removal, immigrants must have time to prepare and present relevant arguments and evidence. Merely telling a person where they may be sent, without giving them a chance to look into country conditions, does not give them a meaningful chance to determine whether and why they have a credible fear.

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

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

Second, even when the government has obtained no credible assurances against persecution and torture, the government can still remove the person with between 6 and 24 hours' notice, depending on the circumstances. Exh. B. Practically speaking, there is not nearly enough time for a detained person to assess their risk in the third country and martial evidence to support any credible fear—let alone a chance to file a motion to reopen with an IJ. An immigrant may know nothing about a third country, like Eswatini or South Sudan, when they are scheduled for removal there. Yet if given the opportunity to investigate conditions, immigrants would find credible reasons to fear persecution or torture—like patterns of keeping deportees indefinitely and without charge in solitary confinement or extreme instability raising a high likelihood of death—in many of the third countries that have agreed to removal thus far. Due process requires an adequate

chance to identify and raise these threats to health and life. This Court must prohibit the government from removing Mr. Moradi 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. Moradi 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.
4. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: July 27, 2026

s/ Hannah Pineiro Basalone

Hannah Pineiro Basalone
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Moradi
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: 7/27/2026

/s/ Hannah Pineiro Basalone
Hannah Pineiro Basalone