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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CARLOS ALBERTO ALVAREZ-RAMIREZ,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of the Department of Homeland Security, TODD BLANCHE, 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.

Case No.: '26CV4876 JLS SBC

Petition for Writ of Habeas Corpus

[28 U.S.C. § 2241]

[1] Federal Defenders of San Diego, Inc., is filing the instant petition with provisional appointment under Chief Judge Order No. 134.

INTRODUCTION

Carlos Alberto Alvarez-Ramirez is a Cuban national with a final order of removal. He previously filed a pro se habeas petition requesting release from custody under *Zadvydas v. Davis*, 533 U.S. 678 (2001). *Ramirez Alvarez v. I.C.E. et al.*, 26-cv-02369-TWR-AHG, ECF 1. On April 22, 2026, District Judge Todd W. Robinson denied the petition without prejudice stating that the six-month presumptively reasonable removal period did not expire until August 26. *Id.* at ECF 6.

Mr. Alvarez-Ramirez has now been detained for six months following the final order of removal. Respondents have yet to inform Mr. Alvarez-Ramirez where or when he will be removed.

Mr. Alvarez-Ramirez's detention violates his statutory and regulatory rights, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment.

(1) Zadvydas violations: Petitioner must also be released under *Zadvydas* because—having proved unable to remove him in the past—the government cannot show that there is a "significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. *See, e.g.*, *Conchas-Valdez*, 2025 WL 2884822, No. 25-cv-2469-DMS (S.D. Cal. Oct. 6, 2025); *Alic v. Dep't of Homeland Sec./Immigr. Customs Enf't*, No. 25-CV-01749-AJB-BLM, 2025 WL 2799679 (S.D. Cal. Sept. 30, 2025); *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept. 25, 2025) (granting habeas petitions releasing noncitizens due to *Zadvydas* violations).

(2) Third-country removal due process violations: This Court should enjoin ICE from removing Petitioner to a third country without providing an opportunity to assert fear of persecution or torture before an immigration judge. *See, e.g.*, *Rebenok v. Noem*, No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623 at *3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-

2502-JES, *4 (S.D. Cal. Oct. 9, 2025); *Ho v. Noem*, 25-cv-02453-BAS-BLM, ECF 11 (Oct. 10, 2025) (all either granting temporary restraining orders or habeas petitions ordering the government to not remove petitioners to third countries pending litigation or reopening of their immigration cases).

This Court should grant this habeas petition and issue appropriate injunctive relief on all grounds addressed below.

STATEMENT OF FACTS

I. ICE has not been able to remove Mr. Alvarez-Ramirez to Cuba or a third country.

Mr. Alvarez-Ramirez was born in Cuba and came to the United States in 2021. Declaration of Carlos Alberto Alvarez-Ramirez, Exhibit A at ¶ 1. He was released into the country. *Id.* On October 17, 2023, an immigration judge ordered him deported to Cuba. *Id.* at ¶ 4. On September 23, 2025, while his asylum was pending on appeal, Mr. Alvarez-Ramirez was detained by ICE at a check-in. *Id.* at ¶ 4. About a month after his detention, Mr. Alvarez-Ramirez was told that Cuba was not accepting him and he was informed that ICE would try to remove him to Mexico. *Id.* at ¶ 5.

On February 26, 2026, the BIA denied Mr. Alvarez-Ramirez's appeal and his order of removal to Cuba became final on that date.[2] *Id.* at ¶ 6.

Around March 28, he was told that ICE wanted to send him to Mexico. *Id.* at ¶ 7. Mr. Alvarez-Ramirez indicated that he did not want to go to Mexico. *Id.* At the end of June, an ICE agent again asked him if he would agree to be sent to Mexico. He said no. *Id.* at ¶ 8.

As of August 20, ICE has not informed Mr. Alvarez-Ramirez where or when he will be removed. *Id.* at ¶ 9.

Mr. Alvarez-Ramirez remains detained at the Otay Mesa Detention Center.

[2] EOIR, *Automated Case Information*, https://acis.eoir.justice.gov/en/.

II. The repatriation agreement with Cuba is new and Cuba is often non-cooperative under it.

Prior to 2017, there was no repatriation agreement between the United States and Cuba. *Clark v. Martinez*, 543 U.S. 371, 386 (2005). On January 12, 2017, the United States and Cuba signed a joint statement ("2017 Joint Statement") by which Cuba agreed to the repatriation of some Cuban nationals. *Cuba (17-112) – Joint Statement Concerning Normalization of Migration Procedures*, Jan. 12, 2017, available at https://www.state.gov/17-112/. The 2017 Joint Statement required Cuba to accept some Cuban nationals but allowed it to use its discretion to accept others on a case-by-case basis.

Despite the 2017 Joint Statement, a 2019 report by the Office of Inspector General classified Cuba as an "uncooperative country" in 2017, 2018, and 2019 based on its failure to provide travel documents on a timely basis. Department of Homeland Security, Office of Inspector General, Report No. OIG-19-28, *ICE Faces Barriers in Timely Repatriation of Detained Aliens* (Mar. 11, 2019), available at https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf at pages 6-7, 10, 29. In May of 2018, Cuba was one of nine countries with the uncooperative categorization. *Id.* at 10.

Based on the facts of Mr. Alvarez-Ramirez's individual case, where they continue to request for him to leave to Mexico, it is evident that ICE has not obtained travel documents from Cuba.

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

When immigrants cannot be removed to their home country—including Cuban immigrants—ICE has begun deporting those individuals to third countries without adequate notice or a hearing. 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 to South Sudan. *See* Wong, *supra*. On July 15, ICE deported five men to the tiny African nation of Eswatini 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).[3] 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 ("Third Country Removal Policy").

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 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

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[3] 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. Alvarez-Ramirez. *Id.* In short, the Supreme Court's decision does not override this Court's 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).

("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

This Court should grant this petition and order two forms of relief.

First, it should order Mr. Alvarez-Ramirez's immediate release. *Zadvydas v. Davis* holds that immigration statutes do not authorize the government to detain immigrants like Petitioner, for whom there is "no significant likelihood of removal in the reasonably foreseeable future." 533 U.S. 678, 701 (2001).

Second, it should enjoin the Respondents from removing Petitioner to a third country without first providing notice and a sufficient opportunity to be heard before an immigration judge.

IV. Claim 1: Mr. Alvarez-Ramirez's detention violates *Zadvydas* and 8 U.S.C. § 1231.

A. Legal background

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered a problem affecting people like Mr. Alvarez-Ramirez: 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.

Zadvydas held that § 1231(a)(6) presumptively permits the government to detain an immigrant for 180 days after his or her removal order becomes final. After those 180 days have passed, the immigrant must be released unless his or her removal is reasonably foreseeable. *Zadvydas*, 533 U.S. at 701. After six months have passed, the petitioner must only make a prima facie case for relief—there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* Then the burden shifts to "the Government [to] respond with evidence sufficient to rebut that showing." *Id.* Using this framework, Mr. Alvarez-Ramirez can make all the threshold showings needed to shift the burden to the government.

B. The six-month grace period has expired.

The six-month grace period has long since ended. The *Zadvydas* grace period is linked to the date the final order of removal is issued. It lasts for "*six months* after a final order of removal—that is, *three months* after the statutory removal period has ended." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Indeed, the statute defining the beginning of the removal period is

linked to the latest of three dates, all of which relevant here are tied to when the removal order is issued. 8 U.S.C. § 1231(a)(1)(B).[4]

Here, Mr. Alvarez-Ramirez's order of removal became final on **February 26, 2026**.[5] Accordingly, his 90-day removal period began then. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period thus expired on **August 26, 2026**, three months after the removal period ended. *See, e.g.*, *Tadros v. Noem*, 2025 WL 1678501, No. 25-cv-4108(EP), *2–*3.

C. The history of Cuba being uncooperative with repatriation provides very good reason to believe that Mr. Alvarez-Ramirez will not likely be removed in the reasonably foreseeable future.

Because the six-month grace period has passed, this Court must evaluate Mr. Alvarez-Ramirez's *Zadvydas* claim using the burden-shifting framework. At the first stage of the framework, Mr. Alvarez-Ramirez must "provide[] good reason to believe 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

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[4] Those dates are, specifically, (1) "[t]he date the order of removal becomes administratively final;" (2) "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order;" or (3) "[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement." *Id.*

[5] EOIR, *Automated Case Information*, https://acis.eoir.justice.gov/en/.

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.

"Significant likelihood of removal." This component focuses on whether Mr. Alvarez-Ramirez 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. Alvarez-Ramirez 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. Alvarez-Ramirez "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. Alvarez-Ramirez readily satisfies this standard for two reasons.

First, as explained above, the 2017 Joint Statement between the United States and Cuba gives Cuba the discretion to accept individuals on a case-by-case basis. Even following the 2017 Joint Statement, the United States has categorized Cuba as uncooperative in providing travel documents in a timely manner.

Second, Mr. Alvarez-Ramirez's own experience bears this out. ICE has not been able to remove him to Cuba. It appears that they are not even trying but are asking that he voluntarily go to the third country of Mexico instead.

Third, ICE cannot remove Mr. Alvarez-Ramirez to Mexico. Mr. Alvarez-Ramirez has not agreed to consent to removal to Mexico. "[T]he consensus among the federal courts of this Circuit is that" Mexico's current policy is to "refuse[] to accept citizens of countries other than Mexico who do not consent to removal to Mexico." *Gaceran-Jimenez v. Marin*, No. 26-cv-1973-BFM, 2026 WL 2262177, *4 (C.D. Cal. Aug. 5, 2026). "If Mexico will not accept those who do not willingly agree to be removed, then, quite simply, Petitioner does not meet Mexico's criteria for removal to that country." *Id.* at *4.

Thus, Mr. Alvarez-Ramirez has met his initial burden, and the burden shifts to the government. Unless the government can prove a "significant likelihood of removal in the reasonably foreseeable future," Mr. Alvarez-Ramirez must be released. *Zadvydas*, 533 U.S. at 701.

V. Claim 2: ICE may not remove Mr. Alvarez-Ramirez to a third country without adequate notice and an opportunity to be heard.

ICE's policies threaten his removal to a third country without adequate notice and an opportunity to be heard. These policies violate 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 the officer and noncitizen 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 *any* opportunity to be heard 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. Alvarez-Ramirez without these due process safeguards.

VI. 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. Alvarez-Ramirez hereby requests such a hearing on any material, disputed facts.

VII. 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 re-detaining Petitioner without first following all procedures set forth in 8 C.F.R. §§ 241.4(*l*), 241.13(i), and any other applicable statutory and regulatory procedures;
4. Enjoin Respondents from removing Petitioner to any country other than Cuba, without first following the consecutive procedures of 8 U.S.C. § 1231(b)(2).
5. Enjoin Respondents from removing Petitioner to any country other than Cuba, 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.

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

Respectfully submitted,

Dated: August 26, 2026

s/ Zandra L. Lopez

Zandra L. Lopez
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Alvarez-Ramirez
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PROOF OF SERVICE

I, the undersigned, will cause the attached petition for a writ of habeas corpus to be emailed to the U.S. Attorney's Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Dated: August 26, 2026

s/ Zandra L. Lopez

Zandra L. Lopez
Federal Defenders of San Diego, Inc.
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Exhibit A

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CARLOS ALBERTO ALVAREZ-RAMIREZ,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of the Department of Homeland Security, et al.

Respondents.

Case No.:

DECLARATION OF CARLOS ALBERTO ALVAREZ-RAMIREZ

I, Carlos Alberto Alvarez-Ramirez, declare:

1. I was born in Cuba. My A number is [redacted].

2. I came to the United States in 2021. I was temporarily detained and then released into the United States.

3. I complied with my check-ins with ICE. I do not have any convictions and I complied with all the requirements.

4. On October 17, 2023, an immigration judge ordered me deported to Cuba. I appealed the case. I was not detained and was required to do check-in with ICE.

5. On September 23, 2025, I went to a check-in and I was detained by ICE. After a month of being detained, ICE told me that Cuba was not accepting me. They said they would try to remove me to Mexico.

6. My appeal continued and on February 26, 2026, the appeal was denied.

7. Around March 28, 2026, an ICE agent asked me if I wanted to go to Mexico. I said I did not want to go to Mexico.

8. At the end of June, ICE agents came to speak to me about three times. The first time an ICE agent again asked me if I wanted to go to Mexico. I said no. ICE agents came back to tell me that they would do a review of my case to see if I would be released.

9. To this date, I have not been informed by anyone as to what ICE plans to do with me.

10. I do not have money to pay for an attorney. I have been detained for 11 months.

11. Each line of this declaration has been read to me in Spanish. I understand and agree with the statements contained herein.

I, Zandra Lopez, declare under penalty of perjury that I read every line of this declaration to Carlos Alberto-Alvarez-Ramirez, and he confirmed that it was true and correct.

Date: August 20, 2026 Signed: */s/ Zandra Lopez*

Exhibit B

PLAINTIFFS' EXHIBIT NO. 2
CASE NO. PX 25-951
IDENTIFICATION: JUL 10 2025
ADMITTED: JUL 10 2025

To All ICE Employees
July 9, 2025

Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)

On June 23, 2025, the U.S. Supreme Court granted the Government's application to stay the district court's nationwide preliminary injunction in *D.V.D. v. Department of Homeland Security*, No. 25-10676, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), which required certain procedures related to providing a "meaningful opportunity" to assert claims for protection under the Convention Against Torture (CAT) before initiating removal to a third country. Accordingly, all previous guidance implementing the district court's preliminary injunction related the third country removals issued in *D.V.D.* is hereby rescinded. Absent additional action by the Supreme Court, the stay will remain in place until any writ of certiorari is denied or a judgment following any decision issues.

Effective immediately, when seeking to remove an alien with a final order of removal—other than an expedited removal order under section 235(b) of the Immigration and Nationality Act (INA)—to an alternative country as identified in section 241(b)(1)(C) of the INA, ICE must adhere to Secretary of Homeland Security Kristi Noem's March 30, 2025 memorandum, *Guidance Regarding Third Country Removals*, as detailed below. A "third country" or "alternative country" refers to a country other than that specifically referenced in the order of removal.

If the United States has received diplomatic assurances from the country of removal that aliens removed from the United States will not be persecuted or tortured, and if the Department of State believes those assurances to be credible, the alien may be removed without the need for further procedures. ICE will seek written confirmation from the Department of State that such diplomatic assurances were received and determined to be credible. HSI and ERO will be made aware of any such assurances. In all other cases, ICE must comply with the following procedures:

- An ERO officer will serve on the alien the attached Notice of Removal. The notice includes the intended country of removal and will be read to the alien in a language he or she understands.
- ERO will <u>not</u> affirmatively ask whether the alien is afraid of being removed to the country of removal.
- ERO will generally wait at least 24 hours following service of the Notice of Removal before effectuating removal. In exigent circumstances, ERO may execute a removal order six (6) or more hours after service of the Notice of Removal as long as the alien is provided reasonable means and opportunity to speak with an attorney prior to removal.
    - Any determination to execute a removal order under exigent circumstances less than 24 hours following service of the Notice of Removal must be approved by the DHS General Counsel, or the Principal Legal Advisor where the DHS General Counsel is not available.

- If the alien 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, ERO may proceed with removal to the country identified on the notice. ERO should check all systems for motions as close in time as possible to removal.
- If the alien does affirmatively state a fear if removed to the country of removal listed on the Notice of Removal, ERO will refer the case to U.S. Citizenship and Immigration Services (USCIS) for a screening for eligibility for protection under section 241(b)(3) of the INA and the Convention Against Torture (CAT). USCIS will generally screen the alien within 24 hours of referral.
    - USCIS will determine whether the alien would more likely than not be persecuted on a statutorily protected ground or tortured in the country of removal.
    - If USCIS determines that the alien has not met this standard, the alien will be removed.
    - If USCIS determines that the alien has met this standard and the alien was not previously in proceedings before the immigration court, USCIS will refer the matter to the immigration court for further proceedings. In cases where the alien was previously in proceedings before the immigration court, USCIS will notify the referring immigration officer of its finding, and the immigration officer will inform ICE. In such cases, ERO will alert their local Office of the Principal Legal Advisor (OPLA) Field Location to file a motion to reopen with the immigration court or the Board of Immigration Appeals, as appropriate, for further proceedings for the sole purpose of determining eligibility for protection under section 241(b)(3) of the INA and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.

Notably, the Supreme Court's stay of removal does not alter any decisions issued by any other courts as to individual aliens regarding the process that must be provided before removing that alien to a third country.

Please direct any questions about this guidance to your OPLA field location.

Thank you for all you continue to do for the agency.

Todd M. Lyons
Acting Director
U.S. Immigration and Customs Enforcement

Attachments:

- U.S. Supreme Court Order
- Secretary Noem's Memorandum
- Notice of Removal