

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

YOUSHITA ALIZADEH,

PETITIONER,

v.

U.S. DEPT. OF HOMELAND SECURITY,
KRISTI NOEM, in her capacity as Secretary
of Department of Homeland Security;
TODD LYONS in his capacity as the Acting
Director of ICE; JOSH JOHNSON in his
capacity as U.S. Immigration and Customs
Enforcement, Dallas Field Office Director;
THOMAS BERGAMI in his capacity as
Warden of the Prairieland Detention Center,
RESPONDENTS.

Civil Case No.

PETITION FOR A WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241,
BY A PERSON SUBJECT TO INDEFINITE
IMMIGRATION DETENTION

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner, Youshita Alizadeh, files this motion seeking the Court's urgent intervention. In late February or early March of 2025¹, Mr. Alizadeh reported to the ICE Field Office located at 8101 N. Stemmons Fwy. in Dallas, Texas. His purpose for being there was the same as it has been for over a decade and a half: annually report as required under the order of supervision ("OSUP") he was placed on in 2007. He was placed on OSUP in 2007 because ICE could not obtain the travel documents from Iran that are necessary to execute the removal order entered in May 2007. When he reported to ICE in February/March 2025 he: checked in, received confirmation of his continued compliance,

¹ Mr. Alizadeh cannot recall the exact date, but does recall that it was either February or March of 2025.

and scheduled his next annual check in for 2026. Because nothing had changed about ICE's ability to obtain travel documents for Mr. Alizadeh, he was continued on OSUP.

2. On about June 22, 2025, the United States launched several air strikes on Iran.² In the weeks that followed, ICE began arresting Iranian nationals in the United States. On about July 2, 2025, Mr. Alizadeh was among those who were suddenly taken into ICE custody without any explanation or claim from ICE that the circumstance preventing his removal in the past (i.e. lack of travel documents).

3. Nearly two months later, Mr. Alizadeh continues to be detained by ICE without any indication that circumstances have in fact changed with respect to the ability to remove him to Iran. Before he can be removed Iran must issue Mr. Alizadeh a travel document. Iran, however, has failed to issue Mr. Alizadeh a travel document for the past 18+ years. Indeed, this is why ICE determined just a few months earlier in 2025, like it had in 2007, that his removal to Iran was not reasonably foreseeable.

4. To be clear, Mr. Alizadeh has never attempted to stop his removal to Iran. And he is not attempting to stop his removal to Iran now. Despite leaving when he was a child, Mr. Alizadeh is not afraid of removal to Iran. He is, however, afraid of being unnecessarily detained in overcrowded ICE detention facility.

5. As of the filing of this petition, ICE has not (to the best of Mr. Alizadeh's knowledge) even submitted a travel document request for Mr. Alizadeh to Iran—much less received any indication that one will be issued by Iran anytime in the near future. Said differently,

² (Pet'r's App. Ex. 1.)

ICE put the proverbial cart before the horse when it detained Mr. Alizadeh, who is neither a flight nor safety risk, at an annual check-in before an actual—rather than hopeful—change in the sole circumstance that matters: Iran issuing a travel to Mr. Alizadeh. And it did so without informing of the reason (beyond “for removal”), much less an opportunity to meaningfully respond to the sudden re-detention. Simply put, ICE failed to follow the mandatory procedures and make the required findings as set forth at 8 C.F.R. § 241.13. If ICE had followed the § 241.13’s required procedures and made the findings required under the regulations, the only conclusion that could have been reached is that there was not and is not a legal basis for this new re-detention now.

6. Given the lack of any legitimate basis for Mr. Alizadeh’s continued detention, where there is neither a risk of flight nor any threat to public safety, it is difficult to discern a rationale for ICE’s actions. The most plausible explanation is that ICE is maintaining his detention solely to inflate its statistical enforcement figures in service of meeting the Agency’s arbitrarily elevated deportation targets. A basis that is as illegal as it is immoral.

7. Recently, there have been several U.S. District Court cases granting the exact relief sought by Mr. Alizadeh to individuals who have been detained circumstances similar to those in this habeas petition and the accompanying TRO. Specifically, each of those cases involved individuals had been placed on an order of supervision (OSUP) when they could not be removed to their native country because it refused to issue travel documents, but they were nonetheless suddenly re-detained after years of compliance with their OSUPs and no evidence of changed circumstances specific to them as required by 8 C.F.R. § 241.13. Among those cases were *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL

1993735, at *4–6 (E.D. Cal. July 16, 2025), *Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025), and *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025). Mr. Alizadeh respectfully asks this Court to follow the reasoning of these decisions and order ICE to immediately release him.

8. The legal reasons and principals articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001) guide the analysis in this case. This habeas petition and the Application for a TRO accompanying it, however, are not being brought under *Zadvydas* which governs continued detention from the start of the statutory 90-day removal period through its expiration and beyond. *Zadvydas* is what required ICE to release Mr. Alizadeh at some point after the statutory removal period expired over two decades ago on August 6, 2007. Because Mr. Alizadeh was in full compliance with his OSUP and the statutory removal period had expired, ICE could only subject Mr. Alizadeh to “re-detention” in accordance with 8 C.F.R. § 241.13. Among other things (ICE failed to do), ICE failed to make the required finding of changed circumstances specific to Mr. Alizadeh which made his removal to Iran reasonably likely in the immediate future. Mr. Alizadeh has been on OSUP for over seventeen years because the government has failed to achieve its goal of obtaining travel documents for Mr. Alizadeh. It still does not have travel documents for him.

9. This re-detention is a flagrant and ongoing violation of the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the required regulatory procedure for re-detention set forth in 8 C.F.R. § 241.13(f),(i). The government’s claim that it’s making a renewed attempt to remove Mr. Alizadeh is not

merely unlikely; it is a legal fiction contradicted by the government's own prior failure. His confinement, therefore, is not administrative but punitive, indefinite, and unconstitutional. Every additional day of this lawless detention inflicts new and irreparable injury through the profound loss of liberty and the forced separation from his U.S. citizen family. For these reasons, good cause exists for this Court to grant this Petition for a Writ of Habeas Corpus and immediately enjoin ICE from continuing to detain Mr. Alizadeh in violation of the constitution and laws of the United States.

CUSTODY

10. Petitioner is currently being detained by and in the physical custody of the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement (hereinafter "ICE") at the Prairieland Detention Center in Alvarado, Texas.³ ICE has contracted with LaSalle Corrections to house detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

11. This action arises under the Constitution of the United States, 28 U.S.C. §2241(c)(1), and the Immigration and Nationality Act ("INA"), 8 U.S.C. §1101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §2241, Art. I §9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. §1331, as Petitioner is presently

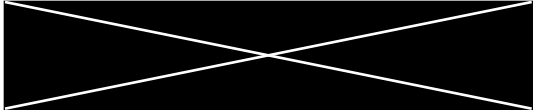
³ (Pet'r's App. Ex. 1.)

in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States.⁴

VENUE

12. Pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of Texas, Dallas Division, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the Prairieland Detention Center in Alvarado, Texas.

PARTIES

13. Petitioner, Mr. Alizadeh, is a native and citizen of Iran where he was born  . Pursuant to 8 U.S.C. § 1231(a)(1), the statutory 90-day removal period began on May 8, 2007 when an Immigration Judge ordered Mr. Alizadeh removed to Iran.⁵ And it ended on August 6, 2007, with Mr. Alizadeh still in ICE custody. Because there has never been a reasonable likelihood of ICE being able to remove him, he was released sometime after the 180-day reasonable presumption period expired. Following his release, Mr. Alizadeh spent the last seventeen years on an OSUP order. On July 2, 2025, Mr. Alizadeh was suddenly detained by ICE not far from his home with no explanation, no violations of the OSUP, no changed circumstances, and no chance of removal to Iran. As

⁴ See *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (“We conclude that §2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention.”); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.”) *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

⁵ (Pet’r’s App. Ex. 2.)

of the time this petition is being filed, Mr. Alizadeh remains re-detained in ICE custody at the Prairieland Detention Center.⁶

14. Respondent Kristi Noem is the Secretary of Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such Ms. Noem is the legal custodian of Petitioner.

15. Respondent Todd Lyons is the Acting ICE Director in this position he is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, Mr. Lyons has ultimate custodial authority over Petitioner in his capacity as Acting Director of ICE.

16. Josh Johnson is the ICE Field Office Director of the Dallas Field Office of ICE and is Petitioner's immediate custodian.⁷

17. Respondent Thomas Bergami in his capacity as Warden of the Prairieland Detention Center where Petitioner is currently detained under the authority of ICE, alternatively may be considered as Petitioner's immediate custodian.

EXHAUSTION OF REMEDIES

18. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. Furthermore, no statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

⁶ (Pet'r's App. Ex. 1.)

⁷ See *Vásquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

STATEMENT OF THE FACTS

19. Mr. Alizadeh is a 51-year-old father of two U.S. citizen children, ages 10 and 12, who spends every weekend with. He is a hardworking and valued machine operator who has spent about three decades making significant contributions to his community. Mr. Alizadeh's life in the United States began when he was very young when Mr. Alizadeh and his family fled Iran and were granted refuge in this country.

20. In 2007, Mr. Alizadeh was taken into the ICE custody and placed in removal proceedings after receiving a conviction for possession of a controlled substance which rendered him removable. On May 8, 2007, an Immigration Judge (IJ) ordered Mr. Alizadeh removed.⁸ Because Mr. Alizadeh did not reserve appeal of that decision, the IJ's removal order became final the same day: May 8, 2007.⁹ Accordingly, pursuant to 8 U.S.C. § 1231(a)(1), the statutory 90-day removal period ended on August 6, 2007. Because there has never been a reasonable likelihood of ICE being able to remove him, he was released sometime after the 180-day reasonable presumption period expired on November 4, 2007. Following his release, Mr. Alizadeh spent the seventeen years on an OSUP order.

21. Mr. Alizadeh was detained for more than 90 days after his removal order. Mr. Alizadeh's prolonged detention and his release after such detention were a direct result of the fact that Iran would not issue travel documents for most of its citizens who obtained

⁸ (Pet'r's App. Ex. 2)

⁹ (Pet'r's App. Ex. 2.)

status in the United States. Because Mr. Alizadeh's removal was not, has not, and is not, a practical possibility, ICE released Mr. Alizadeh in late 2007 on an OSUP.

22. For the subsequent seventeen years, Mr. Alizadeh has reported to ICE as directed, maintained gainful employment, and has provided vital emotional, financial, and physical support to his U.S. citizen spouse who suffers from a number of medical conditions.

23. In February or March of 2025, Mr. Alizadeh presented himself at the ICE office for his scheduled annual check-in. After confirming his compliance and scheduling his next annual check in, Mr. Alizadeh was continued on OSUP. He was continued on OSUP because the circumstance preventing his removal in the past, i.e. lack of the necessary travel documents, still has not changed. The icy and complex relations between the U.S. and Iran are no doubt the driving force behind the inability to repatriate its citizens who are ordered removed from the U.S.

24. The already icy relations between the U.S. and Iran were further splintered on June 22, 2025, when the U.S. launched several airstrikes at targets in Iran.¹⁰

25. It does not take an immigration expert or a legal scholar to realize that, if anything, the U.S. airstrikes on Iran made Mr. Alizadeh's removal there less likely than it was 3-4 months earlier when ICE continued him on OSUP because he could not be removed. Nonetheless, on July 2, 2025, without warning or explanation from ICE, ICE detained him. ICE did so without any process whatsoever, much less the process required by its own regulations found at 8 C.F.R. § 241.13.

¹⁰ (Pet'r's App. Ex. 3.)

26. Since his abrupt and unjustified detention, Mr. Alizadeh has been detained by ICE. Currently, he is detained by ICE at the Prairieland Detention Center in Alvarado, Texas. ICE had made no effort to communicate with him regarding the reason for his detention now. While ICE has generally indicated they are “detaining him for removal,” it has also made statements and taken actions which indicate they still have not obtained travel documents for him from Iran. Said differently, ICE still does not even know if it will be able to remove Mr. Alizadeh. But it does know that it cannot remove him without travel documents which, to the best of Mr. Alizadeh’s knowledge, ICE does not have at the time of this filing. Because ICE does not have travel documents, it cannot remove him now nor could it at any point since it arbitrarily detained him on July 2, 2025.

27. As of the date of this filing, Mr. Alizadeh remains unlawfully detained without any indication that his removal is reasonably foreseeable. His current detention is therefore in direct violation of the principles set forth by the Supreme Court in *Zadvydas v. Davis*, constituting an unlawful restraint on his liberty.

28. This abrupt and unforeseen detention occurred despite there being no material change in Mr. Alizadeh’s circumstances. There is no indication that his removal in the reasonably foreseeable future is any more likely now than it has been at any point in the last two years.¹¹

¹¹ *Cf. Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)(when pressed on evidence specific to changed circumstances of the pre-95 immigrant petitioner in that case, the government only came up with a declaration which the government itself acknowledged was not specific to the petitioner, stating “No doubt the declaration is general and it just says the United States has been successful in removing individuals to Laos.”).

29. The Government's inability to effectuate Petitioner's removal is not the result of a temporary bureaucratic impasse but is instead a reality confirmed every year for the past 18-years. Surely, no one can reasonably believe the likelihood of Mr. Alizadeh's removal suddenly became more likely in the days after the U.S. launched airstrikes against Iran. And yet, it was in the days after those airstrikes that ICE arrested him—not months earlier when reported as required for his annual OSUP check in.

30. The arrest Mr. Alizadeh, along with reportedly more than a hundred other Iranian nationals in the days following the airstrikes, had nothing to do with the circumstances related to his removability. Nor was it because he violated his OSUP. He had not. Because these are the only lawful bases on which ICE could detain him, his detention has been unlawful from its beginning.

31. The Government's inability to effectuate Mr. Alizadeh's removal is further evidenced by the fact that a few months prior to his re-detention, ICE made no attempt to request that he complete or sign any documentation to facilitate a request for travel documents from Iran. Since his current detention began, ICE has made no effort to secure the necessary travel documents.

32. There has only ever been one single impediment to ICE executing the removal order against Mr. Alizadeh: a lack of the necessary travel documents. This, of course, is not a minor impediment. Rather, it has been and continues to be an impossibly insurmountable impediment for Mr. Alizadeh's removal to Iran.

33. Mr. Alizadeh's detention, initiated on July 2, 2025—more than seventeen years after ICE released him after detaining him for removal in 2007—is in direct violation of

the principles set forth by the Supreme Court in *Zadvydas*. More importantly, for the purposes of this action, ICE failed to adhere to its own mandatory regulations when it re-detained Mr. Alizadeh without the process required by the regulations or the existence of changed circumstances specific to Mr. Alizadeh of such significance that his removal has suddenly become reasonably foreseeable. This re-detention has been unconstitutional and unlawful since the moment it began on July 2, 2025, a matter of mere months after it continued him on OSUP when he reported as directed in February or March 2025.

34. The reward for years of reporting as required: ICE detained him anyways. His continued confinement is punitive, not administrative, and is therefore unconstitutional.

Irreparable Harm of Continued ICE Detention

35. Everyday Mr. Alizadeh is detained in ICE custody in direct contravention of the statute and U.S. constitution he suffers irreparable harm. From the physical, emotional, and mental toll the complete sudden loss of one's freedom and liberty takes on anyone in the same circumstances, to the loss of income every day he remains in custody.

36. Irreparable harm (alarmingly) is also found in the very real possibility of Mr. Alizadeh, a 41-year old, dying in ICE custody.¹² In late June, a 55-year old man from Vietnam, died in ICE custody.¹³ According to reports on it, Mr. Phan was ordered removed more than 13-years ago and, it appears, was re-detained seven weeks prior to his death.¹⁴

¹² (See Pet'r's App. Ex. 5 & 6.)

¹³ (Pet'r's App. Ex. 5.)

¹⁴ (*Id.*)

37. On May 14, 2025, in an oversight hearing before the House Appropriations Committee, Todd Lyons, acting director of Immigration and Customs Enforcement, testified that nine people have died in ICE custody since January 20, 2025.¹⁵ A month after this testimony, on June 23, 2025, a 49-year old Canadian citizen died in ICE custody.¹⁶ Reports of overcrowding, individuals being detained at facilities that are meant for processing and not set up for detention beyond a few hours are increasing, and other inhumane detention practices continue to rise. Moreover, if ever there was an agency who had demonstrated it could not be trusted to abide by the law and treat individuals humanely, it has been ICE over the past few months.¹⁷

38. Mr. Alizadeh is at risk of physical harm, emotional trauma, and lasting negative consequences if he remains in custody. Meanwhile, there will be ZERO harm to Respondents if Mr. Alizadeh is immediately released from ICE custody. There is no reason to consider Mr. Alizadeh a danger. He has been on OSUP for seventeen years including earlier this year, so there's no basis to claim he is a flight risk. Moreover, the Supreme Court already dismissed the notion that immigrants whose removal has been difficult in the past can constitute a flight risk, stating: "[B]y definition the first justification [for

¹⁵ This testimony can be found at the following link: <https://www.youtube.com/watch?v=QvoURiaxBmA>.

¹⁶ The ICE press release on this death can be found at the following link: <https://www.ice.gov/news/releases/canadian-national-ice-custody-passes-away>

¹⁷ (See Pet'r's App. Ex. 6 (documenting in detail the many stories of deplorable deteriorating conditions in ICE detention facilities as well as facilities not meant to detain individuals overnight being used to detain noncitizens for days at a time)).

detention] preventing flight—is weak or nonexistent where removal seems a remote possibility.”¹⁸

LEGAL BASIS FOR RELIEF SOUGHT

39. The Immigration & Nationality Act provides that a noncitizen who is “ordered removed” “shall” be removed “from the United States within a period of 90-days.”¹⁹ The same subparagraph goes on to state that this 90-day period is “referred to as the ‘removal period’” in § 1231.²⁰

- a. The 90-day “removal period begins on the latest of the following: (i) The date the order of removal becomes administratively final; (ii) If 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; (iii) If the alien is detained or confined (except under an immigration process); the date the alien is released from detention or confinement.”²¹
- b. As interpreted by *Zadvydas*, § 1231 allows for detention beyond the 90-day removal period in limited circumstances, the government should—and previously has—released those non-citizens for whom there is “no reasonable likelihood of . . . removal in the foreseeable future.”²² That being

¹⁸ *Zadvydas*, 533 U.S. at

¹⁹ 8 U.S.C. § 1231(a)(1)(A).

²⁰ *Id.*

²¹ § 1231(a)(1)(B).

²² *Zadvydas v. Davis*, 533 U.S. 678, 690, (2001)

said, when the statute is “read in light of the Constitution’s demands, [it] limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.”

40. This is not a *Zadvydas* case. This case is not about the initial authority to detain a noncitizen following a final order of removal. Rather, it concerns the authority of Immigration and Customs Enforcement (ICE) to re-arrest and indefinitely²³ detain a man who, after a prior period of detention, was released on an Order of Supervision (OSUP) for years precisely because his removal was not significantly likely in the reasonably foreseeable future.

41. Respondents’ authority to detain Mr. Alizadeh is not boundless. The controlling authority for this scenario is not *Zadvydas*, but the specific federal regulation governing the revocation of release: 8 C.F.R. § 241.13(i).²⁴

42. While 8 U.S.C. § 1231(a) provides the general statutory framework for post-removal-order detention and supervised release, “[t]he revocation of that release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen’s release for purposes of removal. Specifically, a noncitizen’s release may be revoked “if, on account of changed circumstances,” it

²³ The words “indefinite” or “indefinitely” when used in this brief to refer to Mr. Nguyen’s detention, are meant to describe the length of his detention as “unknown” or an “unspecified period of time.” When given their ordinary meaning Respondents cannot truly claim that Mr. Nguyen’s detention is anything but indefinite as they have provided no time frame whatsoever for even making the request for travel documents, much less when it believes it will get them.

²⁴ *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (“This case is not about ICE’s authority to detain in the first place... This case is about ICE’s authority to re-detain Mr. Nguyen after he was issued a final order of removal, detained, and subsequently released on an OSUP. The DHS regulation, 8 C.F.R. § 241.13(i), applies to non-citizens in Petitioner’s situation.”); *See also Escalante, v. Noem, et. al.*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (“[T]his is not your typical first round detainment of an alien awaiting removal. Petitioner was previously detained, then released on supervised release for several years, and his 90-day removal period expired. *Zadvydas*, relied upon by Respondents, dealt with the initial detainment of an alien awaiting removal.”).

is determined that “there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.”²⁵ Furthermore, the regulations go on to proscribe the process for revocation based on a determination of changed circumstances as follows:

[T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.²⁶

43. These regulations, not *Zadvydas* or 8 U.S.C. § 1231, govern ICE’s re-detention of individuals who have been released after a determination was made that they could not be removed. The first step in this process is necessarily a determination of changed circumstances. Then, once that determination is made, ICE is required to follow the interview and notice requirements of § 241.13(i)(3).

44. ICE’s failure to do either of these things properly provides two independent bases for granting this Petition and request for an injunction. Assuming *arguendo* (but not in no way conceding) that the regulations allow ICE to re-detain noncitizens for whom there has previously been a determination that removal is not reasonably foreseeable, ICE must follow its own regulations setting forth the process to be followed before re-detention.²⁷

²⁵ *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3 (E.D. Cal. July 16, 2025) (quoting 8 C.F.R. § 241.13(i)(2)).

²⁶ 8 C.F.R. § 241.13(i)(3).

²⁷ *See Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *4–6 (E.D. Cal. July 16, 2025) (discussing the regulatory requirements for re-detention in the context of a habeas petition and request for a TRO seeking the immediate release of a “re-detained” immigrant); *see also Hoac v. Beccerra, et al.*,

Specifically, “ICE's decision to re-detain a noncitizen like [Mr. Alizadeh] who has been granted supervised release is governed by ICE's own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future.”²⁸

45. There is no evidence ICE followed its own regulations in this case. Mr. Alizadeh was not interviewed by ICE before being detained. There is no evidence ICE has even started the process for requesting travel documents for Mr. Alizadeh from Iran—much less that it has obtained such documents.

46. Simply put, ICE did not follow its own regulations for re-detention set forth in § 241.13(f),(i) and, even if it claims it did, there is no evidence of changed circumstances specific to Mr. Alizadeh that would make his removal reasonably foreseeable—which is necessary for re-detention under § 241.13(i)(2).²⁹ Accordingly, the instant petition is being filed seeking the Court to Order Mr. Alizadeh's immediate release from ICE custody.

47. While *Zadvydas* does not control, its core reasoning illuminates the central question here: what constitutes a *reasonable* period of detention? The answer to that question, and the constitutional permissibility of the detention itself, depends entirely on the circumstances. Common sense dictates a profound difference between the six-month period immediately following a removal order and the re-detention of an individual decades later, after years of

No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025)(same); *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)(same).

²⁸ *Id.*; see also *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)).

²⁹ See *Phan*, 2025 WL 1993735, at *4–6; *Hoac*, 2025 WL 1993771, at *3; *Nguyen*, 2025 WL 1725791, at *3.

compliance with supervision, and who voluntarily appears for all check-ins. In other words, the analysis for individuals like Mr. Alizadeh who was detained after years of compliance on OSUP is much different than for noncitizens who have just been ordered removed are still within the statutory removal period.

48. The “historic purpose of the writ,” as *Zadvydas* reminds us, is “to relieve detention by executive authorities without judicial trial.”³⁰ To that end, this Court must ask whether Mr. Alizadeh’s detention “exceeds a period reasonably necessary to secure removal,” measuring reasonableness “primarily in terms of the statute’s basic purpose, namely, *assuring the alien’s presence at the moment of removal.*”³¹

49. To achieve its sole legitimate purpose—assuring his presence at the moment of removal—ICE should not need to have Mr. Alizadeh’s detained for any more than 72 hours before a scheduled departure. He does not need to be detained for months on end while ICE may or may not begin the process of seeking travel document.

PETITIONER’S FIRST CLAIM FOR RELIEF: ICE’S VIOLATION OF ITS OWN REGULATIONS & STATUTORY VIOLATION

50. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

51. Petitioner’s continued re-detention by Respondents without following the process set forth by its own regulations at 8 C.F.R. § 241.13(f),(i) is unlawful as ICE failed to adhere to the revocation procedures set forth at 8 C.F.R. § 241.13(i).³² As here, ““where an

³⁰ 533 U.S. at 699.

³¹ *Id.* (emphasis added).

³² *Id.*

immigration regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute . . . and [ICE] fails to adhere to it, the challenged [action] is invalid.”³³ Based on ICE's violations of its own regulations, Mr. Alizadeh's detention is unlawful and his immediate release is appropriate, particularly given that his removal is not reasonably foreseeable.³⁴

**PETITIONER'S SECOND CLAIM FOR RELIEF: SUBSTANTIVE DUE
PROCESS VIOLATION**

52. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

53. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.³⁵

54. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite re-detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only

³³ *Nguyen v. Hyde*, 2025 WL 1725791, at *5 (quoting *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017)); see also *Zadvydas*, 533 U.S. at 690 (“The Fifth Amendment's Due Process Clause forbids the Government to ‘depriv[e]’ any ‘person ... of ... liberty ... without due process of law.’ Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.”).

³⁴ See *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (allowing petitioner's motion for release upon a finding that ICE violated its regulations that implicated a fundamental constitutional right).

³⁵ See e.g., *Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights).

for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest – to effect the alien's removal.³⁶ Re-detention under the regulations requires removal to be reasonably foreseeable under the same standard, and therefore, ICE's re-detention of Mr. Alizadeh over two decades after release because removal was not reasonably foreseeable is unlawful absent a changed circumstances specific to him significant enough to make his removal reasonably foreseeable in the immediate future.

[Nothing further on this page.]

³⁶ See *Kay v. Reno*, 94 F.Supp.2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention – executing removal – is nonsensical.").

REQUEST FOR RELIEF

WHEREFORE, Petitioner Mr. Alizadeh respectfully requests that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus and direct the Respondents to immediately release Petitioner from custody under reasonable conditions of supervision;
- 3) Immediately Order Respondents not to transfer the Petitioner out of the jurisdiction of this Court while the Petitioner remains in Respondent's custody during the pendency of these proceedings;
- 4) Order Respondents not to remove Petitioner to any country other than Iran as it was the only country previously designated by the IJ during removal proceedings held under 8 U.S.C. § 1229a;
- 5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 6) Grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED,

/s/ Dan Gividen

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