

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MUBASHAR HASSAN,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. C25-2559-JHC-MLP

REPORT AND RECOMMENDATION

I. INTRODUCTION

Petitioner Mubashar Hassan is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Northwest ICE Processing Center (“NWIPC”) in Tacoma, Washington. He has filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 seeking release from custody. (Dkt. # 2.) Petitioner, who is proceeding through counsel, asserts that he is entitled to release because his continued detention violates *Zadvydas v. Davis*, 533 U.S. 678 (2001). (*See id.* at 3, 14.) Petitioner also asserts claims arising out of Respondents’ third-country removal policy. (*Id.* at 14-15.) Respondents have filed a return memorandum (dkt. # 10), and Petitioner has filed a reply to the return (dkt. # 13).

The Court, having now considered the parties’ submissions and the governing

1 law, concludes that Petitioner's federal habeas petition should be granted, and Petitioner should
2 be immediately released from custody. Further, as discussed below, Petitioner should be granted
3 the relief requested on his claims related to third-country removal.

4 II. BACKGROUND

5 Petitioner is a native and citizen of Pakistan. (*See* dkt. # 2 at 6; Andron Decl. (dkt. # 11),
6 ¶ 3.) Petitioner was admitted to the United States at New York City on October 16, 2024, on a
7 B1/B2 visa issued by the Dubai consulate on September 10, 2024. (Andron Decl., ¶¶ 5-6.) On
8 October 26, 2024, Petitioner was taken into custody by ICE after he attempted to enter Canada
9 without inspection near the Peace Arch Park in Blaine, Washington, and was returned to the
10 Pacific Highway Port of Entry by Canadian authorities. (*Id.*, ¶¶ 5-6.) Petitioner reported to
11 United States Customs and Border Protection ("CBP") that he had been convicted of a crime in
12 Pakistan that rendered him inadmissible to the United States. (*See id.*)

13 On the day he was taken into custody, Petitioner was served with a Notice to Appear
14 ("NTA") by CBP charging him with being removable pursuant to § 237(a)(1)(A) of the
15 Immigration and Nationality Act ("INA"), 8 U.S.C. § 1227(a)(1)(A), thus formally initiating
16 removal proceedings. (*See* Andron Decl., ¶ 6.) The NTA set an initial hearing for November 26,
17 2024, in the Tacoma Immigration Court. (*Id.*) Petitioner was thereafter transferred to NWIPC,
18 where he remains. (*See id.* at ¶¶ 6-7.) On January 2, 2025, an immigration judge sustained the
19 charge of removability and identified Pakistan as the country of removal. (*Id.*, ¶ 8.) On the same
20 day, Petitioner filed an application for asylum and withholding of removal with the Executive
21 Office for Immigration Review ("EOIR"). (*Id.*, ¶ 8.)

22 On May 22, 2025, an immigration judge ordered Petitioner removed to Pakistan, and his
23 application for asylum and withholding of removal was denied. (Andron Decl., ¶ 9.) However,

1 the immigration judge granted Petitioner's application for deferral of removal to Pakistan under
2 Article III of the Convention Against Torture ("CAT"). (*Id.*) All parties waived appeal and
3 Petitioner's removal order thus became final on the date of the immigration judge's decision.
4 (*See id.*)

5 On November 21, 2025, Petitioner was provided a list of countries that would not require
6 a visa for travel, and Petitioner indicated he would inform the Office of Enforcement and
7 Removal Operations ("ERO") of the countries he would choose for removal by November 25,
8 2025. (Andron Decl., ¶ 10.) On December 9, 2025, Petitioner informed ERO that he would not
9 choose a country for removal. (*Id.*, ¶ 11.)

10 Petitioner initiated the instant action on December 12, 2025. (*See* dkt. ## 1-3.) Petitioner
11 argues in his federal habeas petition that: (1) his continued detention violates the Due Process
12 Clause of the Fifth Amendment because there is no significant likelihood that he will be removed
13 in the reasonably foreseeable future; (2) any attempt to carry out his removal to a third country
14 requires notice and a meaningful opportunity to be heard in reopened removal proceedings, as
15 mandated by statute and the Constitution; and (3) Respondents' recently implemented third-
16 country removal program is punitive in nature and execution and is therefore unconstitutional
17 under the Fifth and Eighth Amendments, as explained in *Wong Wing v. United States*, 163 U.S.
18 228, 237 (1896). (*See* dkt. # 2 at 14-16.)

19 Respondents, in their return, do not address Petitioner's *Zadvydas* indefinite detention
20 claim. They address only Petitioner's third-country removal claims, arguing that Petitioner may
21 not obtain the relief he seeks here with respect to such claims because he is a member of the non-
22 opt out certified class in *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 25-cv-10676 (D. Mass.),
23 and because the claims fail on the merits. (*See* dkt. # 10 at 5-16.)

III. DISCUSSION

A. Indefinite Detention

Title 8 U.S.C. § 1231 governs the detention and release of noncitizens such as Petitioner who have been ordered removed. Under § 1231(a), the Department of Homeland Security (“DHS”) is required to detain a noncitizen during the 90-day “removal period.” 8 U.S.C. §§ 1231(a)(1)(B), (a)(2). After the removal period expires, DHS has the discretionary authority to continue to detain certain noncitizens. 8 U.S.C. § 1231(a)(6). Although § 1231(a)(6) authorizes ICE to detain noncitizens beyond the initial 90-day window, it cannot do so indefinitely. *See Zadvydas*, 533 U.S. at 682.

In *Zadvydas*, the Supreme Court held that § 1231(a)(6) implicitly limits a noncitizen’s detention to a period reasonably necessary to bring about that individual’s removal from the United States. *Zadvydas*, 533 U.S. at 701. The Supreme Court determined that it is “presumptively reasonable” for DHS to detain a noncitizen for six months following entry of a final removal order while it works to remove the individual from the United States. *Id.* “After this six-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* If the Government fails to rebut the noncitizen’s showing, the noncitizen is entitled to habeas relief. *Id.* The Supreme Court explained in *Zadvydas* that “for detention to remain reasonable, as the period of prior post removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.*

The record makes clear that Petitioner is subject to a final order of removal that was issued over eight months ago on May 22, 2025. (*See* dkt. # 2 at 3; Andron Decl., ¶ 9.) The record

1 also makes clear that Petitioner cannot be removed to his native country, Pakistan, because he
2 has been granted deferral of removal under CAT. (*See* dkt. # 2 at 6; Andron Decl., ¶ 9.)
3 Petitioner has thus established that his continued detention is no longer presumptively reasonable
4 and that his removal to Pakistan is not reasonably foreseeable. Respondents offer no evidence or
5 argument to rebut Petitioner's showing; they note only that Petitioner has declined to select a
6 third country for removal. (Dkt. # 10 at 3; Andron Decl., ¶ 11.) Moreover, nothing in the record
7 suggests that ICE has made any effort to identify a viable third country for Petitioner's removal
8 aside from providing him a list of possible options.

9 As Respondents have made no effort to satisfy their burden under *Zadvydas*, Petitioner is
10 entitled to habeas relief with respect to his indefinite detention claim.

11 **B. Third-Country Removal**

12 Petitioner also asserts two claims relating to his possible removal to a third country, both
13 challenging the constitutionality of ICE's current third-country removal policy.¹ (*See* dkt. # 2 at
14 7-16.) Petitioner requests in relation to these claims that this Court: (1) order that Respondents
15 may not remove or seek to remove him to a third country "without notice and [a] meaningful
16 opportunity to respond in compliance with the statute and due process in reopened removal
17 proceedings"; and (2) order that Respondents may not remove him to any third country "because
18 Respondents' third-country removal program seeks to impose unconstitutional punishment on its
19 subjects, including imprisonment and other forms of harm." (*Id.* at 17.)

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23 ¹ The policy is set forth in full in the body of Respondents' return (*see* dkt. # 10 at 4-5) and a copy of the
policy was also attached as an exhibit to the return (*see id.*, Ex. B).

1 1. *Ability to Seek Relief*

2 Respondents argue that the Court should reject Petitioner's requests for relief relating to
3 his third-country removal claims because he is a member of the plaintiff class in *D.V.D. v. Dep't*
4 *Homeland Sec.*, No. 25-cv-10676 (D. Mass.), and is bound by the U.S. Supreme Court's stay of
5 the preliminary injunctive relief granted by the district court in that action. (*See* dkt. # 10 at 5-
6 12.)

7 Respondents have made similar arguments in a number of prior cases, and courts in this
8 district have consistently rejected such arguments. *See Nguyen v. Scott*, 796 F. Supp. 3d 703,
9 729-32 (W.D. Wash. Aug. 21, 2025); *Baltodano v. Bondi*, 2025 WL 3484769, at *2-3 (W.D.
10 Wash. Dec. 4, 2025); *Abubaka v. Bondi*, 2025 WL 3204369, at *2 (W. D. Wash. Nov. 17, 2025).
11 This Court, as did the court in both *Baltodano* and *Abubaka*, adopts the *Nguyen* court's analysis
12 of this issue and its findings that (1) "The class certification order in *D.V.D.* does not prevent this
13 Court from adjudicating Petitioner's claims regarding third-country removal," and (2) absent
14 "clear guidance from the Supreme Court," which the emergency docket order in *D.V.D.* does not
15 provide, this Court must follow well-established precedent. *Nguyen*, 796 F. Supp. 3d at 729-32.
16 This Court now turns to the substance of Petitioner's third-country removal claims.

17 2. *Due Process/INA*

18 Petitioner argues that prior to any third-country removal, he must be afforded notice and
19 a meaningful opportunity to be heard, and he asserts that ICE's current third-country removal
20 policy violates due process and relevant statutes and regulations because

21 it directs ICE agents to remove individuals to third countries without any notice or
22 process *at all* where diplomatic assurances are received and, where no diplomatic
23 assurances are received, to provide flagrantly insufficient notice (6-24 hours) and
 opportunity to respond. . . .

1 (Dkt. # 2 at 14-15 (emphasis in original)). Respondents argue that even if the ongoing litigation
2 in *D.V.D.* and the Supreme Court’s stay of the class-wide preliminary injunction in that case does
3 not prevent this Court from adjudicating Petitioner’s third-country removal claims, his due
4 process challenge to the current DHS policy regarding third-country removal should be denied
5 on the merits as the policy comports with due process. (Dkt. # 10 at 12-16.)

6 A number of courts in this district have recently addressed challenges to ICE’s current
7 third-country removal policy and have concluded that the policy violates due process. *See*
8 *Baltodano*, 2025 WL 3484769, at *6; *Abubaka*, 2025 WL 3204369, at *6; *see also Nguyen*, 796
9 F. Supp. 3d at 727-29. In reaching these conclusions, the courts have relied on an earlier decision
10 from this district, *Aden v. Nielsen*, 409 F. Supp. 3d 998 (W.D. Wash. 2019).

11 In *Aden*, the court held that a “noncitizen must be given sufficient notice of a country of
12 deportation that, given his capacities and circumstances, he would have a reasonable opportunity
13 to raise and pursue his claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009.
14 Citing to both the due process requirement that a petitioner be afforded “a full and fair hearing,
15 an impartial decisionmaker, and evaluation of the merits of his or her particular claim,” and to
16 the statutory requirements of 8 U.S.C. § 1231, the *Aden* court held that in the context of a third-
17 country removal, “[g]iving petitioner an opportunity to file a motion to reopen [his removal
18 proceedings] . . . is not an adequate substitute for the process that is due in these circumstances.”
19 *Id.* at 1010 (citations omitted). Rather, the court concluded, the removal proceedings must be
20 reopened so that a hearing may be held. *Id.* at 1011. In *Nguyen*, the court noted that “[t]he
21 requirements set forth in *Aden* flow directly from binding Ninth Circuit precedent about due
22 process protections before removal to a third country[.]” and held that ICE’s current policy
23 governing third-country removals “contravenes Ninth Circuit law.” 796 F. Supp. 3d at 727-28.

1 The Court finds no basis to deviate from the courts' reasoning in *Baltodano*, *Abukaka*,
2 and *Nguyen*, and applies the same reasoning here. If Petitioner is to be removed at all, he will
3 necessarily be removed to a third country given that he cannot be returned to his native country
4 of Pakistan. It is therefore reasonable to conclude that Petitioner will be subject to the current
5 policy should a third country be identified for his removal and, as explained above, that policy
6 violates due process. The Court therefore concludes that Petitioner is entitled to the requested
7 order that Respondents not remove him to a third country without notice and a meaningful
8 opportunity to be heard in reopened removal proceedings.

9 3. *Punitive Nature of Removal Policy*

10 Finally, Petitioner asks the Court to categorically prohibit his removal to any third
11 country on the ground that Respondents' third-country removal program is unconstitutionally
12 punitive in all applications. (Dkt. # 2 at 15-16.) On the present record, the Court declines to make
13 such a broad ruling. The relief granted in this Order requiring notice and a meaningful
14 opportunity to be heard will allow Petitioner to challenge any particular proposed third-country
15 removal where he can show a risk of imprisonment or other serious harm, and nothing in this
16 Order prevents him from pursuing additional relief if warranted by future events.

17 **IV. CONCLUSION**

18 Based on the foregoing, this Court recommends as follows:

19 (1) That Petitioner's petition for writ of habeas corpus (dkt. # 2) be GRANTED in
20 part;

21 (2) That Respondents be ordered to immediately RELEASE Petitioner on reasonable
22 conditions of supervision, and file a notice with the Court within **two (2) business days**
23 confirming Petitioner has been released from immigration detention; and,

1 (3) That Respondents be prohibited from removing or attempting to remove
2 Petitioner to any third country without providing Petitioner and his counsel, if any, at least **ten**
3 **(10) days'** written notice identifying the proposed country of removal and affording Petitioner a
4 meaningful opportunity to be heard in reopened removal proceedings before an immigration
5 judge, including the opportunity to seek any available protection or relief.

6 A proposed Order accompanies this Report and Recommendation. Objections to this
7 Report and Recommendation, if any, should be filed with the Clerk and served upon all parties to
8 this suit not later than **fourteen (14) days** from the date on which this Report and
9 Recommendation is signed. Failure to file objections within the specified time may affect your
10 right to appeal. Objections should be noted for consideration on the District Judge's motions
11 calendar **fourteen (14) days** from the date they are filed. Responses to objections may be filed
12 by **the day before the noting date**. If no timely objections are filed, the matter will be ready for
13 consideration by the District Judge on **February 12, 2026**.

14 DATED this 29th day of January, 2026.

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17 MICHELLE L. PETERSON
18 United States Magistrate Judge
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