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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SHARIF IBRAHIM,

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.: '26CV3023 DMS MMP

**Petition for Writ
of
Habeas Corpus**

[28 U.S.C. § 2241]

INTRODUCTION

On March 19, 2008, Sharif Ibrahim received withholding of removal to Somalia. He was released on an order of supervision about three months later. He remained on supervision for the next 18 years, never again committing another offense.

Nevertheless, ICE re-detained him on April 30, 2026. But in so doing, ICE violated their own regulations, requiring immediate release. Furthermore, “there is no significant likelihood of removal in the reasonably foreseeable future,” meaning that Mr. Ibrahim’s detention is not statutorily authorized. *Zadvydas v. Davis*, 533 U.S. 678 (2001). And if—despite all evidence to the contrary—ICE is able to remove him to a third country, ICE threatens to do so in violation of the Fifth Amendment’s Due Process Clause. This Court should grant this petition on all three grounds.

STATEMENT OF FACTS

I. Mr. Ibrahim won withholding and was released on an order of supervision, but ICE re-detained him after 18 years.

Mr. Ibrahim’s family came to the United States as refugees from Somalia. Exh. A at ¶ 1. In 2003, Mr. Ibrahim was arrested and convicted of an offense. Exh. A at ¶ 2. He got a sentence of 30 days in jail and a few years’ probation, which he completed early. *Id.*

He was placed in removal proceedings. *Id.* at ¶ 3. An immigration judge ordered him removed on March 19, 2008, but he was granted withholding of removal to Somalia. *Id.* ICE kept him in custody for approximately 3 months after that, then released him on an order of supervision. *Id.*

Mr. Ibrahim never sustained another conviction. *Id.* at ¶ 2. And for many years, Mr. Ibrahim checked in with ICE whenever he was asked to do so. *Id.* at ¶ 4. During the 2020 COVID-19 pandemic, however, ICE offices closed. *Id.* at ¶ 5. Mr. Ibrahim received a call from ICE in May 2020 asking if he had anything

1 to report. *Id.* He said no and asked if ICE wanted him to come in. *Id.* ICE
2 declined—they would let him know when to come in next. *Id.* He never received
3 another communication from ICE telling him to check in. *Id.* But he was in
4 contact with the immigration system to renew his work permit, which he did
5 successfully every year between 2021 and 2024. *Id.* at ¶ 6.

6 On April 30, 2026, Mr. Ibrahim was taking his son to school. *Id.* at ¶ 7. His
7 daughter was riding in the back seat. She woke up early that day and wanted to
8 come with them. *Id.* Mr. Ibrahim was driving his daughter back home when he
9 spotted a black Crysler with no front plates. *Id.* Suddenly, several cars surrounded
10 him. *Id.* Officers piled out of the cars, told him that they had an arrest warrant,
11 and took him into custody. *Id.*

12 Mr. Ibrahim received paperwork stating that ICE was arresting him for two
13 reasons: (1) because he did not pick up ICE’s phone call six years previous, in
14 May 2020, and (2) because he failed to report a 2025 change of address. Exh. B at
15 1. In an informal interview conducted immediately after, Mr. Ibrahim told ICE
16 that he had picked up ICE’s call in 2020, but to no avail. *Id.* at 3. He was booked
17 into custody and taken to Otay Mesa Detention Center. His wife is 11 weeks
18 pregnant. Exh. A at ¶ 8.¹

19 CLAIMS FOR RELIEF

20 This Court should grant this petition for three reasons. First, ICE violated
21 their own regulations and due process in re-detaining Mr. Ibrahim. Second, there
22 is no significant likelihood that Mr. Ibrahim will be removed in the reasonably
23 foreseeable future. Three, ICE’s third-country removal policy violates due
24 process.
25
26
27

28 ¹ Mr. Ibrahim qualifies for Federal Defenders’ services. *Id.* at ¶ 9.

I. Count 1: ICE failed to comply with its own regulations before re-detaining Mr. Ibrahim, violating his rights under the Fifth Amendment and the Administrative Procedures Act.

The Department of Homeland Security has enacted a series of regulations to protect the due process rights of someone who, like Mr. Ibrahim, is re-detained following a period of release. Title 8 C.F.R. § 241.4(l) applies to re-detention generally, while 8 C.F.R. § 241.13(i) applies to persons released after providing good reason to believe that they will not be removed in the reasonably foreseeable future, *see Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165, at *2 (S.D. Cal. Sept. 15, 2025), as Mr. Ibrahim was.

ICE is required to follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to abide by certain internal policies is well-established.”). A court may review a re-detention decision for compliance with the regulations. *See Phan v. Beccerra*, No. 2:25-CV-01757, 2025 WL 1993735, at *3 (E.D. Cal. July 16, 2025); *Nguyen v. Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)). Many judges in this district have granted habeas petitions or temporary restraining orders when ICE failed to follow 8 C.F.R. §§ 241.4(l), 241.13(i). *See, e.g., Constantinovici v. Bondi*, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept. 15, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No. 10 (S.D.

Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025).²

Here, ICE violated § 241.13 and due process in at least two respects.³

First, though ICE revoked Mr. Ibrahim for three reasons, at least two were improper bases for revocation under the regulations. According to Mr. Ibrahim's revocation paperwork, he was arrested in part because he "failed to answer the telephone when contacted by the agency" on May 6, 2020—approximately 6 years ago. Exh. B at 1. Not only is that apparently false: Mr. Ibrahim picked up his check-in call from ICE in May 2020. Exh. A at ¶ 5. It is also quite obviously pretextual: He was not arrested for 6 years despite successfully renewing his work permit four times. *Id.* at ¶ 13. "Judicial review of agencies is deferential — not naïve. Courts will not suffer pretext in the review of agency conduct." *Sweet v. DeVos*, 495 F. Supp. 3d 835, 846 (N.D. Cal. 2020) (citing *Dep't of Com. v. New York*, 588 U.S. 752 (2019)).

Furthermore, missing a single call from ICE also does not appear to be a violation of Mr. Ibrahim's release conditions. Exh. C. There is no condition requiring noncitizens to answer every ICE phone call. And here, ICE does not even

² Courts in other districts have done the same. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7–9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Liu*, 2025 WL 1696526, at *2; *M.Q. v. United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

³ Some of these violations also constitute § 241.4(*I*) violations, but because § 241.13(*i*) is more comprehensive, Mr. Ibrahim focuses his arguments on that regulation.

1 accuse Mr. Ibrahim of failing to pick up on purpose. There is certainly no condition
2 that permits revocation for every missed call, even accidental ones.

3 Section 241.13(i)(1) allows revocation only if the releasee “violates any of
4 the conditions of release.” Because this was not a violation of Mr. Ibrahim’s release
5 conditions, and because it was in any case an obvious pretext for arrest, it was not
6 a proper basis for revocation.

7 Additionally, ICE claimed that it was revoking release to “enforce the
8 removal order entered against you as ICE has the ability and means to effectuate
9 your removal.” Exh. B at 1. But the only additional information provided was that
10 Mr. Ibrahim’s case was “under review for removal to an alternate country.” *Id.*

11 Section 241.13(i)(2) permits revocation only “if, on account of changed
12 circumstances,” ICE can now likely remove the releasee. But there are no changed
13 circumstances likely to result in Mr. Ibrahim’s removal. Absent any evidence for
14 “why obtaining a travel document is more likely this time around[,] Respondents’
15 intent to eventually complete a travel document request for Petitioner does not
16 constitute a changed circumstance.” *Hoac v. Becerra*, No. 2:25-CV-01740-DC-
17 JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (citing *Liu v. Carter*, No.
18 25-3036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025)). Thus, this was
19 not a proper basis for revocation, either.

20 Putting this together, at least two of the three bases for revocation were
21 invalid under the regulations. And there is no reason to think that ICE would have
22 revoked Mr. Ibrahim’s release for the remaining, minor technical violation of
23 failing to report a single change of address after 18 years of compliance. Exh. B at
24 1. Thus, the revocation violated the Administrative Procedures Act and due process.

25 *Second*, ICE provided an informal interview immediately after presenting
26 him with the charges. Section 241.13(i)(3) permits a re-detained immigrant to
27 “submit any evidence or information that he or she believes shows” that the bases
28 for revocation are invalid. But “[w]hen a petitioner is provided notice on the same

1 day that their informal interview is conducted, they are substantially prejudiced in
2 preparing competent arguments and/or gathering any supporting documents to
3 regain their freedom.” *Saengphet v. Noem*, 815 F. Supp. 3d 1142, 1152 (S.D. Cal.
4 2025). “What results from such a situation is a deprivation of any ‘meaningful
5 opportunity’ for a petitioner to be heard on the incredibly important issue of re-
6 obtaining their freedom.” *Id.* (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335
7 (1976)).

8 This opportunity was especially important for Mr. Ibrahim, because two of
9 the three grounds for revocation were invalid, and the third was a single address-
10 change violation after 18 years of compliance. In particular, Mr. Ibrahim maintains
11 that he did talk to ICE in 2020, and with notice, he might have been able to get
12 phone records or witness statements to confirm that. Exh. A at ¶ 5. Mr. Ibrahim also
13 has very strong equities. He has ten children, six of whom he supports, and his wife
14 is 11 weeks pregnant. Exh. A at ¶¶ 8–9. Especially given those circumstances, there
15 is no reason to believe that ICE would have revoked release for the address change
16 reason alone. Given the opportunity, then, Mr. Ibrahim could have marshaled
17 evidence to contest his redetention and successfully won his release. ICE’s failure
18 to provide that opportunity violated due process.

19 “[B]ecause officials did not properly revoke petitioner’s release pursuant to
20 the applicable regulations, that revocation has no effect, and [Mr. Ibrahim] is
21 entitled to his release (subject to the same Order of Supervision that governed his
22 most recent release).” *Liu*, 2025 WL 1696526, at *3.

23 **II. Count 2: Mr. Ibrahim’s detention violates *Zadvydas* and 8 U.S.C.**
24 **§ 1231.**

25 **A. Legal background**

26 Mr. Ibrahim’s indefinite detention violates the statute authorizing detention,
27 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme
28 Court considered a problem affecting people like Mr. Ibrahim. Federal law

1 requires ICE to detain an immigrant during the “removal period,” which typically
2 spans the first 90 days after the immigrant is ordered removed. 8 U.S.C.
3 § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes
4 discretionary—ICE may detain the migrant while continuing to try to remove
5 them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to excessive
6 detention, as removal happens within days or weeks. But some detainees cannot
7 be removed quickly. Perhaps their removal “simply require[s] more time for
8 processing,” or they are “ordered removed to countries with whom the United
9 States does not have a repatriation agreement,” or their countries “refuse to take
10 them,” or they are “effectively ‘stateless’ because of their race and/or place of
11 birth.” *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and
12 other circumstances, detained immigrants can find themselves trapped in
13 detention for months, years, decades, or even the rest of their lives.

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

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

21 Following the six-month grace period, courts must use a burden-shifting
22 framework to decide whether detention remains authorized. First, the petitioner
23 must make a *prima facie* case for relief: He must prove that there is “good reason
24 to believe that there is no significant likelihood of removal in the reasonably
25 foreseeable future.” *Id.*

26 If he does so, the burden shifts to “the Government [to] respond with
27 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of
28 proof rests with the government: The government must prove that there is a

1 “significant likelihood of removal in the reasonably foreseeable future,” or the
2 immigrant must be released. *Id.*

3 **A. The six-month grace period expired years ago.**

4 As an initial matter, the six-month grace period has long since ended. The
5 *Zadvydas* grace period lasts for “*six months* after a final order of removal—that is,
6 *three months* after the statutory removal period has ended.” *Kim Ho Ma v.*
7 *Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Ibrahim was ordered
8 removed on March 19, 2008. Exh. A at ¶ 3. Accordingly, his 90-day removal
9 period began then. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period thus
10 expired six months after the removal order became final, on September 19, 2008.
11 The threshold requirement is therefore met.

12
13 **B. There is good reason to believe that there is no significant**
14 **likelihood of Mr. Ibrahim removal in the reasonably foreseeable**
15 **future.**

16 Because the six-month grace period has passed, this Court must evaluate
17 Mr. Ibrahim’s *Zadvydas* claim using the burden-shifting framework. At the first
18 stage of the framework, there must be “good reason to believe that there is no
19 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
20 533 U.S. at 701. This standard can be broken down into three parts.

21 **“Good reason to believe.”** The “good reason to believe” standard is a
22 relatively forgiving one. “A petitioner need not establish that there exists no
23 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
24 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to
25 believe” . . . place a burden upon the detainee to demonstrate no reasonably
26 foreseeable, significant likelihood of removal or show that his detention is
27 indefinite; it is something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW,
28 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401

1 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says:
2 Petitioners need only give a “good reason”—not prove anything to a certainty.

3 **“No significant likelihood of removal.”** This component focuses on
4 whether Mr. Ibrahim will likely be removed: Continued detention is permissible
5 only if it is “significant[ly] like[ly]” that ICE will be able to remove him.
6 *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of
7 untapped possibilities, but also [the] probability of *success* in such possibilities.”
8 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis
9 added). In other words, even if “there remains *some* possibility of removal,” a
10 petitioner can still meet its burden if there is good reason to believe that
11 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
12 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

13 **“In the reasonably foreseeable future.”** This component of the test
14 focuses on when Mr. Ibrahim will likely be removed: Continued detention is
15 permissible only if removal is likely to happen “in the reasonably foreseeable
16 future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE’s
17 removal efforts. If the Court has “no idea of when it might reasonably expect
18 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal
19 is likely to occur—or even that it might occur—in the reasonably foreseeable
20 future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3
21 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL
22 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d
23 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Mr. Ibrahim
24 “would *eventually* receive” a travel document, he can still meet his burden by
25 giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*,
26 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

27 Mr. Ibrahim has very good reason to believe that ICE cannot remove him.
28 First, the government has not been able to remove Mr. Ibrahim for the last 18

1 years. Exh. A at ¶ 10. And there are no apparent changes would make his removal
2 reasonably foreseeable now. That in itself strongly suggests he cannot soon be
3 removed.

4 Second, there is an obvious explanation for ICE’s inability to remove him:
5 The IJ’s order prohibits his removal to his home country of Somalia, “which is the
6 only country to which he has . . . legal immigration status.” *Villanueva*, 2025 WL
7 2774610, at *10. “This substantially increases the difficulty of removing him.”
8 *Munoz-Saucedo*, 789 F. Supp. 3d at 398.

9 That’s because “alternative-country removal is rare.” *Johnson v. Guzman-*
10 *Chavez*, 594 U.S. 523, 537 (2021). Between 2020 and 2023, data apparently show
11 that “ICE removed . . . only *five* non-citizens granted withholding or CAT relief to
12 alternative countries.” *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398 (D.N.J.
13 2025) (emphasis original). In fiscal year 2017, there were at most 21 people of the
14 thousands with withholding of removal deported to *any* country; that number
15 includes dual citizens who only received withholding from one of their two other
16 countries of origin. *See* American Immigration Council & National Immigrant
17 Justice Center, *The Difference Between Asylum and Withholding of Removal*, 7
18 (Oct. 2020)⁴ (cited in *Guzman-Chavez*, 594 U.S. at 537). That means that “less than
19 two percent of those granted withholding of removal were deported to a third
20 country.” *Puertas-Mendoza*, 2025 WL 3142089 at *3 (citing American
21 Immigration Council & National Immigrant Justice Center, *supra*).

22 “[T]hat is not simply a matter of United States policy—foreign governments
23 ‘routinely deny’ requests to receive people who lack a connection to the would-be
24 receiving country.” *Puertas-Mendoza*, 2025 WL 3142089 at *3. “The reason so few
25 people are deported to third countries is because,” while “customary international
26

27 ⁴Available at [https://www.americanimmigrationcouncil.org/wp-](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf)
28 [content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf](https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/the_difference_between_asylum_and_withholding_of_removal.pdf)

1 law holds that a country has a duty to accept the return of its nationals,” usually,
2 “countries have no incentive to accept non-citizens.” American Immigration
3 Council & National Immigrant Justice Center, *supra*, at 7.

4 Because third country removal is exceedingly rare, and ICE has made no
5 progress in removing Mr. Ibrahim to one over the last 18 years, Mr. Ibrahim has
6 met his initial burden. Thus, unless the government can prove a “significant
7 likelihood of removal in the reasonably foreseeable future,” Mr. Ibrahim must be
8 released. *Zadvydas*, 533 U.S. at 701.

9 **III. Count 3: ICE may not remove Mr. Ibrahim to a third country without**
10 **adequate notice and an opportunity to be heard.**

11 There is therefore no current likelihood that Mr. Ibrahim will be removed to
12 a third country. But ICE is trying to do just that, and in this rapidly evolving removal
13 landscape, something unforeseen could suddenly change to make that feasible.
14 ICE’s “credible threat of enforcement” of this third-country removal plan is
15 sufficient to make this claim justiciable, even ICE does not have any current
16 feasible plan to remove Mr. Ibrahim to a third country. *See Susan B. Anthony List*
17 *v. Driehaus*, 573 U.S. 149, 156–57, 161 (2014) (finding standing, even though the
18 politician seeking enforcement of an unconstitutional law was no longer running
19 for office). And if ICE did suddenly prove able to remove Mr. Ibrahim to a third
20 country, it would do so under a policy that violates the Fifth Amendment, the
21 Convention Against Torture, and implementing regulations.

22 **A. Legal background**

23 U.S. law enshrines protections against dangerous and life-threatening
24 removal decisions. By statute, the government is prohibited from removing an
25 immigrant to any third country where they may be persecuted or tortured, a form
26 of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). The
27 government “may not remove [a noncitizen] to a country if the Attorney General
28

1 decides that the [noncitizen's] life or freedom would be threatened in that country
2 because of the [noncitizen's] race, religion, nationality, membership in a particular
3 social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16, 1208.16.
4 Withholding of removal is a mandatory protection.

5 Similarly, Congress codified protections enshrined in the CAT prohibiting
6 the government from removing a person to a country where they would be tortured.
7 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy of
8 the United States not to expel, extradite, or otherwise effect the involuntary return
9 of any person to a country in which there are substantial grounds for believing the
10 person would be in danger of being subjected to torture, regardless of whether the
11 person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.*
12 §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

13 To comport with the requirements of due process, the government must
14 provide notice of the third country removal and an opportunity to respond. Due
15 process requires “written notice of the country being designated” and “the statutory
16 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*
17 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S.*
18 *Dep’t of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D.
19 Mass. May 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

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

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

15 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
16 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
17 for good reason: To have a meaningful opportunity to apply for fear-based
18 protection from removal, immigrants must have time to prepare and present
19 relevant arguments and evidence. Merely telling a person where they may be sent,
20 without giving them a chance to look into country conditions, does not give them a
21 meaningful chance to determine whether and why they have a credible fear.

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

25 The policies in the June 6, 2025 memo do not adhere to these requirements.
26 First, under the policy, ICE need not give immigrants *any* notice or hearing before
27 removing them to a country that—in the State Department’s estimation—has
28 provided “credible” “assurances” against persecution and torture. Exh. B. By

1 depriving immigrants of any chance to challenge the State Department's view, this
2 policy violates "[t]he essence of due process," "the requirement that a person in
3 jeopardy of serious loss be given notice of the case against him and opportunity to
4 meet it." *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

5 Second, even when the government has obtained no credible assurances
6 against persecution and torture, the government can still remove the person with
7 between 6 and 24 hours' notice, depending on the circumstances. Exh. B.
8 Practically speaking, there is not nearly enough time for a detained person to assess
9 their risk in the third country and marshal evidence to support any credible fear—let
10 alone a chance to file a motion to reopen with an IJ. An immigrant may know
11 nothing about a third country, like Eswatini or South Sudan, when they are
12 scheduled for removal there. Yet if given the opportunity to investigate conditions,
13 immigrants would find credible reasons to fear persecution or torture—like patterns
14 of keeping deportees indefinitely and without charge in solitary confinement or
15 extreme instability raising a high likelihood of death—in many of the third
16 countries that have agreed to removal thus far. Due process requires an adequate
17 chance to identify and raise these threats to health and life. This Court must prohibit
18 the government from removing Mr. Ibrahim without these due process safeguards.

19 **IV. This Court must hold an evidentiary hearing on any disputed facts.**

20 Resolution of a prolonged-detention habeas petition may require an
21 evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009).
22 Mr. Ibrahim hereby requests such a hearing on any material, disputed facts.

23 **V. Prayer for relief**

24 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 25 1. Order Petitioner's immediate release on his preexisting order of
26 supervision;
27 2. Enjoin ICE from re-detaining Petitioner under 8 U.S.C. § 1231(a)(6)
28 unless and until Respondents obtain a travel document for his removal;

- 1 3. Enjoin ICE from re-detaining Petitioner unless ICE complies with 8
- 2 C.F.R. §§ 241.4(I), 241.13(i) and all other applicable statutes and
- 3 regulations;
- 4 4. Enjoin Respondents from removing Petitioner unless they provide the
- 5 following process, *see D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV
- 6 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025):
- 7 a. written notice to both Petitioner and Petitioner's counsel in a
- 8 language Petitioner can understand;
- 9 b. a meaningful opportunity, and a minimum of ten days, to raise a
- 10 fear-based claim for CAT protection prior to removal;
- 11 c. if Petitioner is found to have demonstrated "reasonable fear" of
- 12 removal to the country, Respondents must move to reopen
- 13 Petitioner's immigration proceedings;
- 14 d. if Petitioner is not found to have demonstrated a "reasonable fear"
- 15 of removal to the country, a meaningful opportunity, and a
- 16 minimum of fifteen days, for the Petitioner to seek reopening of his
- 17 immigration proceedings; and
- 18 5. Order all other relief that the Court deems just and proper.
- 19

20 Respectfully submitted,

21
22 Dated: May 14, 2026

/s/ Katie Hurrelbrink

KATIE HURRELBRINK

Federal Defenders of San Diego, Inc.

Email: katie_hurrelbrink@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: 5/14/2026

/s/ Katie Hurrelbrink
KATIE HURRELBRINK