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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

EBDANASSR ALEBW,
Petitioner

v.

ARNALDO HERNANDEZ,
SUPERINTENDENT, ANCHORAGE
CORRECTIONAL COMPLEX; et al.

Defendants.

Case No. 3:26-cv-00228-SLG

**RESPONSE IN OPPOSITION TO MOTION FOR
TEMPORARY RESTRAINING ORDER**

Petitioner moved for a temporary restraining order (“TRO”) requesting he not be transported out of the District of Alaska and requesting his release from custody. Dkt. 2. The Court granted the TRO prohibiting his transfer out of the District. Dkt. 6. The Government hereby files its opposition and requests the Court dissolve the TRO.

I. INTRODUCTION

Petitioner, Ebdalnassr Alebw entered the United States on December 29, 2024, without being admitted or paroled.¹ He does not contest he is subject to a final order of removal. Dkt. 2 at 4. After his release from detention, he was accepted to be removed to the Central African Republic pursuant to Third Country Removal agreement between the United States and the Central African Republic. Espinal Decl. ¶¶ 4 and 6. On April 4, 2026, the Central African Republic provided diplomatic assurances that the aliens removed from the United States pursuant to this agreement will not be subjected to persecution or torture or any country that the Central African Republic may further transfer them to. On May 4, 2026, the Department of State determined that the diplomatic assurances were credible. Espinal Decl. ¶ 5.

Petitioner advances two primary claims in his petition. First, that he will become a member of a class action suit in another district and will be entitled to relief. Dkt. 1. Second, that he must be referred to an asylum officer pursuant to 8 C.F.R. § 241.8(e). What he fails to inform the Court of, however, is that even if he were to become a class member in Massachusetts, he is entitled to no immediate relief. That is because the Supreme Court of the United States, followed by the First Circuit Court, has stayed the enforcement of the order Petitioner claims grants him relief. Two higher courts, on three separate occasions, have stayed the relief Petitioner claims he would be entitled to as a class member. In

¹ The Petitioner's name appears in the record with varying spellings. For purposes of this motion, the Government adopts the spelling used at Dkt. 1.

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addition, in regards to Petitioner's second claim, 8 C.F.R. § 241.8(e) does not apply to Petitioner. Subsection (e) only applies to *reinstated* orders of removal, something not present in the case at bar. Accordingly, he cannot establish a likelihood of success, fails to demonstrate serious questions going to the merits, and this Court should dissolve the TRO.

II. LEGAL STANDARD

The standard for issuing a temporary restraining order is “substantially identical” to the standard for issuing a preliminary injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “It frequently is observed that a preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). For mandatory preliminary relief to be granted, Petitioner “must establish that the law and facts *clearly favor* [his] position.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (emphasis in original). And “[w]here a party seeks mandatory preliminary relief that goes well beyond maintaining the status quo pendente lite, courts should be extremely cautious about issuing a preliminary injunction.” *Martin v. International Olympic Committee*, 740 F.2d 670, 674-75 (9th Cir. 1984) (citation omitted).

A plaintiff seeking a preliminary injunction must show that: (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in

the public interest. *Winter*, 555 U.S. at 20. (citations omitted). Alternatively, a plaintiff can show that there are “serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third *Winter* factors are satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal quotation omitted).

The purpose of preliminary injunctive relief is to preserve the status quo pending final judgment, rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984). “A preliminary injunction can take two forms.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). “A prohibitory injunction prohibits a party from taking action and ‘preserves the status quo pending a determination of the action on the merits.’” *Id.* (citation omitted). “A mandatory injunction orders a responsible party to take action.” *Id.* at 879 (internal quotation and citation omitted). “A mandatory injunction goes well beyond simply maintaining the status quo pendente lite and is particularly disfavored.” *Id.* (internal quotation and citation omitted). “In general, mandatory injunctions are not granted unless extreme or very serious damage will result and are not issued in doubtful cases.” *Id.* (internal quotation omitted). Where a plaintiff seeks mandatory injunctive relief, “courts should be extremely cautious.” *Stanley v. Univ. of S. California*, 13 F.3d 1313, 1319 (9th Cir. 1994) (internal quotation and citation omitted). Thus, in a mandatory injunction request, the moving party “must establish that the law and facts *clearly favor* [her] position, not simply that [she] is likely to succeed.” *Garcia*, 786 F.3d at 740

(emphasis original).

Here, in addition to asking the Court to preserve the status quo, Petitioner seeks mandatory injunctive relief in the form of an order requiring his immediate release.

III. ARGUMENT

Petitioner advances two claims in his petition. Initially, he argues he will become a member of a class action suit in another district and will be entitled to relief. Dkt. 1. The Supreme Court, followed by the First Circuit Court of Appeals, stayed the enforcement, and thus, he is entitled to no relief even if he becomes a class member. Secondly, Petitioner argues he must be referred to an asylum officer pursuant to 8 C.F.R. § 241.8(e).

This Court, having previously granted a TRO, should dissolve the TRO as Petitioner cannot establish a likelihood of success on the merits or serious questions as to the merits of his claim. In short, Petitioner's claim that he will become a member of a class is not determinative of whether he will ultimately be granted relief and 8 C.F.R. § 241.8(e) only applies to *reinstated* orders of removal—which are for when an alien is removed and enters the United States again. In those cases, the order of removal must be reinstated. Petitioner does not appear to argue he was previously removed. *See* Dkt. 1.

Petitioner has failed to show a likelihood of success on the merits. Undisputably, Petitioner has received notice of his removal to the Central African Republic and any one of his numerous attorneys could have applied for relief at the Immigration Court.

A. Petitioner does not satisfy the requirements for preliminary relief.

1. Petitioner is unlikely to succeed on the merits.

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Likelihood of success on the merits is a threshold issue: “[W]hen a plaintiff has failed to show the likelihood of success on the merits, [the court] need not consider the remaining three *Winters* elements.” *Garcia*, 786 F.3d at 740 (internal quotation and citation omitted). To succeed on a habeas petition, Petitioner must show that he is “in custody in violation of the Constitution or laws or treaties of the United States.” *See* 28 U.S.C. § 2241.

i. Petitioner was afforded due process.

Aliens facing removal have opportunities to apply for relief or protection from removal. *See, e.g.*, 8 U.S.C. § 1158 (asylum); 8 U.S.C. § 1229b(a) (cancellation of removal); 8 U.S.C. § 1229b(b) (adjustment of status).

The INA establishes criteria for determining the country to which an alien will be removed. *See Jama v. ICE*, 543 U.S. 335, 338-341 (2005). Specifically, Section 1231(b) provides sequences of countries to which the alien shall be removed, subject to certain disqualifying conditions. 8 U.S.C. § 1231(b)(1)-(2).

As a practical matter, that third country often falls within Section 1231(b)’s catch-all provisions allowing removal to any country willing to accept the alien. *See* 8 U.S.C. §§ 1231(b)(2)(E)(vii), (1)(C)(iv).

On March 30, 2025, DHS clarified its “policy regarding the removal of aliens with final orders of removal pursuant to sections 240, 241(a)(5), or 238(b) of the [INA] to countries other than those designated for removal in those removal orders.” Ex. A. For countries that have provided such assurances, “the alien may be removed without the need for further procedures.” *Id.* at 1-2. “In cases where the alien affirmatively states a fear,

USCIS will generally screen the alien within 24 hours of referral from the immigration officer.” *Id.* at 2. From there, USCIS will determine whether the alien is more likely than not to be persecuted on a statutorily protected ground or tortured in the country of removal. *Id.* If the alien does not meet the standard, the alien will be removed. *Id.* If, however, the alien meets the standard, USCIS will refer the matter to the Immigration Court. *Id.*

Here, the Government has received *diplomatic assurances* from the Central African Republic that Petitioner will not be subjected to persecution or torture. Espinal Decl. ¶ 5. Petitioner fails to particularize his general claim of fear. *See* Dkt. 2. The Court should conclude that Petitioner is simply seeking to forestall his removal.

ii. Petitioner is not entitled to be referred to an asylum officer pursuant to 8 C.F.R. 241.8(e).

Next, while Plaintiff argues 8 C.F.R. 241.8(e) entitles him to be referred to an asylum officer, he is incorrect because the country that he will be removed to is a third country, not the country listed in his removal order. Ex. B. Moreover, a reinstated order in 8 C.F.R. 241.8(e) concerns when an alien was removed and then reenters the United States. *See Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006); *see also Ortiz-Alfaro v. Holder*, 694 F.3d 955, 956 (9th Cir. 2012). In short, “§ 241.8(e) creates an exception by which an alien who asserts ‘a fear of returning to the country designated’ in his reinstated removal order is ‘immediately’ referred to an asylum officer who must determine if the alien has a reasonable fear of persecution or torture in accordance with 8 C.F.R. § 208.31.” *Id.* It is a narrow, procedural safeguard, within the *reinstatement* process. Petitioner does not allege he was removed from the United States previously, thus the exception in § 241.8(e) is *Alebw v. Hernandez et al.*

inapplicable to him. *See* Dkts. 1 and 2.

iii. Assuming, *arguendo*, if Petitioner was a class member of D.V.D., he is not entitled to any immediate relief.

Petitioner erroneously argues that if becomes a class member of *D.V.D. v. DHS*, No. CV 25-10676-BEM, 2026 WL 521557 (D. Mass. Feb. 25, 2026), he will be protected from removal. Dkt. 1 at 3. However, The Supreme Court stayed the enforcement of the order Petitioner claims would grant him relief. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153, 222 L. Ed. 2d 1109 (2025); *see also Dep't of Homeland Sec. v. D. V. D.*, 145 S. Ct. 2627, 2629, 222 L. Ed. 2d 1155 (2025). The District Court of Massachusetts later entered final judgment and awarded relief that largely, but not entirely, tracked the preliminary injunction it ordered previously. *See D.V.D. v. Dep't of Homeland Sec.*, 2026 WL 521557, at *44 (D. Mass. Feb. 25, 2026). But it also temporarily stayed the judgment, with the First Circuit later extending the stay pending appeal. *See Order at 1, D.V.D. v. Dep't of Homeland Security*, Case No. 26-1212 (1st Cir. Mar. 16, 2026). Thus, as the *D.V.D.* litigation currently stands, the March 30 guidance remains valid. Petitioner's claims that he "is entitled to the declaratory relief and set aside relief afforded by the district court to D.V.D. class members" necessarily fails. *Id.*; *Cf.* Dkt. 1 at 3. Worse than that, however, Petitioner is asking this Court for relief that the Supreme Court has twice issued orders lifting injunctions seeking to prohibit third country removal like the one at bar.

iv. The Louisiana district court order did not prohibit Petitioner's return to detention.

Petitioner additionally makes a claim that "[he] was lawfully released from

detention in another district, having had the merits of a *Habeas* petition fully litigated there. ICE has lawlessly re-detained [him] in direct violation of that order.” Dkt. 2 at 7. Yet, he fails to inform this Court that he was only released because his removal to Syria could not be effectuated at that time. Exs. C and D. Moreover, nothing in the Western District of Louisiana’s order prohibits him from being placed back into custody when a third country was obtained to effectuate his removal—the scenario present at bar. *Cf. id.* Thus, this claim fails.

v. Petitioner, by his own admission, has notice of his removal to the Central African Republic.

Finally, and notably, Petitioner admits he has had notice of his removal to the Central African Republic. Dkt. 2 at 4. Presumably, any of his multiple lawyers could seek relief at the Immigration Court, but instead, Petitioner files this action in an effort to forestall his removal.

vi. Petitioner is not entitled to release from detention considering his final order of removal.

An individual may seek habeas relief under 28 U.S.C. § 2241 if he is “in custody” under federal authority “in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c). But habeas relief is available to challenge *only the legality or duration of confinement*. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep’t of Homeland Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically “provide[s] a means of contesting the lawfulness of restraint and securing release.”). Petitioner’s

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“potential” actions that may provide him relief are, accordingly, irrelevant.

After a final order of removal, an alien *must* be detained pursuant to 8 U.S.C. § 1231(a)(2). Since he has a final order of removal, Petitioner must be detained. Petitioner spends no effort claiming that his detention is unlawful pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001) because unlike his recent Louisiana petition, he now has a country he can be removed to.

B. Petitioner has not shown irreparable harm.

Petitioner has not demonstrated that he will suffer irreparable injury absent the mandatory injunctive relief he seeks. To do so, he must demonstrate “immediate threatened injury.” *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *Los Angeles Memorial Coliseum Commission v. National Football League*, 634 F.2d 1197, 1201 (9th Cir.1980)). “The Ninth Circuit makes clear that a showing of immediate irreparable harm is essential for prevailing on a [preliminary injunction].” *Juarez v. Asher*, 556 F. Supp.3d 1181, 1191 (W.D. Wash. 2021) (citing *Caribbean Marine Co., Inc. v. Bladridge*, 844 F.2d 668, 674 (9th Cir. 1988)). Merely showing a “possibility” of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. Moreover, mandatory injunctions are not granted unless extreme or very serious damage will result. *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 879 (internal citation omitted). “Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court’s] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 U.S.

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at 22 (citation omitted).

The only immediate irreparable injury asserted in the Petition is Petitioner's detention pending his removal. Petitioner appears to assert that his detention constitutes irreparable injury. But this irreparable harm argument "begs the constitutional questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional injury." *Cortez v. Nielsen*, 19-cv-754, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019). Moreover, additional time in immigration detention pending removal does not constitute immediate irreparable injury. *See Resendiz v. Holder*, 12-cv-4850, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012) ("loss of liberty" is "common to all [noncitizens] seeking review of their custody or bond determinations").

Petitioner has failed to make a clear showing he will be subjected to immediate, irreparable injury without the request injunctive relief.

C. The balance of equities and public interests favors the Government.

It is well settled that the public interest in enforcement of United States' immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders). This public interest outweighs Petitioner's private interest here.

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CONCLUSION

Petitioner has failed to establish a likelihood of success on the merits of his claims or even serious questions going to the merits. This Court should dissolve the TRO.

RESPECTFULLY SUBMITTED this June 8, 2026, in Anchorage, Alaska.

MICHAEL J. HEYMAN
United States Attorney

/s/ Joshua A. Traini
Assistant U.S. Attorney
United States of America

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2026,
a true and correct copy of the foregoing
was served electronically on the following:

Jane M. Imholte
Federal Public Defender
District of Alaska
Attorney for Petitioner

/s/ Joshua A. Traini
Office of the U.S. Attorney



**Homeland
Security**

March 30, 2025

MEMORANDUM FOR: Kika Scott
Senior Official Performing the Duties of the Director
U.S. Citizenship and Immigration Services

Pete R. Flores
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection

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

FROM: Kristi Noem 
Secretary of Homeland Security

SUBJECT: **Guidance Regarding Third Country Removals**

Purpose

This memorandum clarifies DHS policy regarding the removal of aliens with final orders of removal pursuant to sections 240, 241(a)(5), or 238(b) of the Immigration and Nationality Act (INA) to countries other than those designated for removal in those removal orders (third country removals).¹ DHS has used similar processes before, including with respect to Title 42 expulsions and the Migrant Protection Protocols.

Process Regarding Third Country Removals²

Written Notice to the Alien & Fear Screening

Prior to the alien's removal to a country that had not previously been designated as the country of removal, DHS must determine whether that country has provided diplomatic assurances that aliens removed from the United States will not be persecuted or tortured. If the United States has received such assurances, and if the Department of State believes those assurances to be credible, the alien

¹ This memorandum does not address expedited removals pursuant to INA § 235(b)(1).

² These procedures only apply to aliens who have no ongoing proceeding in which to raise a claim under INA § 241(b)(3) or the Convention Against Torture. For aliens who have such proceedings, DHS will follow existing procedures.

may be removed without the need for further procedures. If the United States has not received those assurances, or if the Department of State does not believe them to be credible, DHS must follow the procedures below.

DHS will first inform the alien of removal to that country. Immigration officers will not affirmatively ask whether the alien is afraid of being removed to that country. DHS is taking this approach in line with its determination in mid-2024 that such questioning may be suggestive and that asking them leads to false claims rendering the immigration system as a whole less efficient. *Securing the Border*, 89 Fed. Reg. 48710, 48743 (June 7, 2024) (noting that aliens are “more likely to respond in the affirmative, even if they do not in fact have a fear of return or intention of seeking asylum” when asked affirmative fear questions); *Securing the Border*, 89 Fed. Reg. 81156, 81235 (Oct. 7, 2024). The allegation that a foreign country’s government will torture an alien or allow an alien to be persecuted, particularly a government with which the United States has a diplomatic relationship, is a serious one. It is not unreasonable for an alien in that circumstance to be expected to affirmatively express a fear of persecution or torture.

Immigration officers will refer any alien who affirmatively states a fear of removal to U.S. Citizenship and Immigration Services (USCIS) for a screening for eligibility for protection under INA § 241(b)(3) and the Convention Against Torture (CAT) for the country of removal.

Where the Alien Affirmatively States a Fear

In cases where the alien affirmatively states a fear, USCIS will generally screen the alien within 24 hours of referral from the immigration officer. This screening may be done remotely. 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 in the first instance. 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 U.S. Immigration and Customs Enforcement (ICE). ICE OPLA may 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 INA § 241(b)(3) and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.



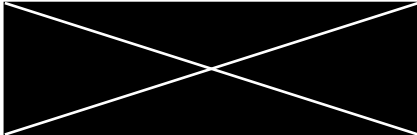
UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OAKDALE IMMIGRATION COURT

Respondent Name:

ALEBW, EBDALNASSR

To:

Abusharar, Akram



A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/27/2025

- ☐ Unable to forward - no address provided.
- ☒ Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

- ☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

- ☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. This is a final order. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available. However, you may file a petition for review within 30 days with the appropriate Circuit Court of Appeals to appeal this decision pursuant to 8 U.S.C. § 1252; INA § 242.

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- ☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.
- ☐ Other:

Date: 06/27/2025



Immigration Judge: FREEMAN, D'Anna H. 06/27/2025

Certificate of Service

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To: [] Noncitizen | [] Noncitizen c/o custodial officer | [E] Noncitizen's atty/rep. | [E] DHS

Respondent Name : ALEBW, EBDALNASSR | A-Number :



Riders:

Date: 06/27/2025 By: Barrera, Lupita, Court Staff



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OAKDALE IMMIGRATION COURT

Respondent Name:

ALEBW, EBDALNASSR

To:

Abusharar Akram

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

06/27/2025

ORDER OF THE IMMIGRATION JUDGE

- ☒ This is a summary of the oral decision entered on . The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- ☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☐ removable ☒ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): 212(a)(6)(A)(i) & 212(a)(7)(A)(i)(I).

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- ☒ Asylum was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under INA § 241(b)(3) was ☒ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Withholding of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Deferral of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

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B. Cancellation of Removal

- ☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

- ☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

- ☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.
- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- ☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
- ☐ Further information regarding voluntary departure has been added to the record.
- ☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- ☐ the presumptive civil monetary penalty amount of \$3,000.00 USD
- ☐ \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of

Exhibit B

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10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

IV. Removal

- ☒ Respondent was ordered removed to Syria.
- ☐ In the alternative, Respondent was ordered removed to
- ☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

V. Other

- ☐ Proceedings were ☐ dismissed ☐ terminated with prejudice
☐ terminated without prejudice ☐ administratively closed.
- ☐ Respondent's status was rescinded under INA § 246.
- ☐ Other:

D'Anna H. Freeman

Immigration Judge: FREEMAN, D'Anna H. 06/27/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☒ waived ☐ reserved
Appeal Due: 07/28/2025

Certificate of Service

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Respondent Name : ALEBW, EBDALNASSR | A-Number : 

Riders:

Date: 06/27/2025 By: Barrera, Lupita, Court Staff

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

EBDALNASSR ALEBW,
Petitioner

CIVIL DOCKET NO. 3:26-CV-00073
SEC P

VERSUS

JUDGE ROBERT R. SUMMERHAYS

KRISTI NOEM ET AL,
Respondents

MAGISTRATE JUDGE PEREZ-MONTES

REPORT AND RECOMMENDATION

Before the Court is a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (ECF No. 1) filed by Petitioner Ebdalnassr Alebw (“Alebw”), an immigration detainee at Jackson Correctional Central in Jonesboro, Louisiana. Alebw challenges the legality of his continued detention.

Because there is no significant likelihood of Alebw’s removal in the reasonably foreseeable future, the Petition should be GRANTED.

I. Background

Alebw entered the United States on December 29, 2024, without being admitted or paroled. ECF No. 22-4 at 1. He was placed in removal proceedings on March 18, 2025, and he has remained detained since. *Id.*

On June 27, 2025, an immigration judge ordered Alebw removed from the United States to Syria, but granted relief in the form of withholding of removal to Syria. *Id.* The order became administratively final on July 28, 2025. *Id.*

On or about November 6, 2025, Enforcement and Removal Operations (“ERO”) elevated Alebw’s case to the Removal Division at Headquarters, requesting assistance in finding a third country for removal. ECF No. 22-4 at 2. ERO sent follow-up emails on January 12 and March 31, 2026. *Id.*

II. Law and Analysis

The Court has jurisdiction to consider Alebw’s challenge to his continued post-removal order detention. *See Nguyen v. Noem*, No. 5:25-CV-176, 2026 WL 237282, at *6 (S.D. Tex. Jan. 28, 2026) (“Mr. Nguyen contests only his post-removal-period detention . . . rather than any aspect of his underlying removal order or the decision by DHS to execute it. Thus, . . . the Court retains jurisdiction to review his detention.”); *Kokoreva v. Unknown Party*, No. 3:25-CV-1700, 2025 WL 2981626, at *2 (N.D. Tex. Oct. 7, 2025) (“[T]he Court retains jurisdiction to review a noncitizen’s detention insofar as that detention presents constitutional issues, such as those raised in a habeas petition.”) (quotation omitted), *report and recommendation adopted*, 2025 WL 2980642 (N.D. Tex. Oct. 22, 2025); *Yousef v. Warden Richwood Corr. Ctr.*, No. 25-CV-1947, 2025 WL 3784489, at *2 (W.D. La. Dec. 10, 2025), *report and recommendation adopted*, 2026 WL 19378 (W.D. La. Jan. 2, 2026).

After an alien is ordered removed, the Government has 90 days with which to effectuate the removal. *See* 8 U.S.C. § 1231(a)(1)(A). However, § 1231 permits detention beyond 90 days, for a period reasonably necessary to bring about that alien’s removal from the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). In fact, detention for up to six months is “presumptively reasonable.” *Id.*

Afterward, if the alien “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the Government must either rebut that showing or release him. *Id.*; see also 8 CFR § 241.13 (setting forth the *Zadvydas* procedures). The petitioner bears the initial burden of demonstrating that a likelihood of removal in the reasonably foreseeable future does not exist. See *Andrade v. Gonzales*, 459 F.3d 538 (5th Cir. 2006). The alien’s claim must be supported by more than mere “speculation and conjecture.” *Idowu v. Ridge*, No. 03-cv-1293, 2003 WL 21805198, *4 (N.D. Tex. Aug. 4, 2003) (citing *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002)).

If the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must either rebut that showing with evidence or release the alien. See *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018); *Zadvydas*, 533 U.S. at 701.

Because Alebw’s removal order became final on July 28, 2025, he has been detained beyond the presumptively reasonable period. So, the presumption of reasonableness no longer applies. See *Shengelia v. Ortega*, 5:25-CV-1545, 2025 WL 3654368, at *3 (W.D. Tex. Dec. 16, 2025).

Alebw provides good reason to believe that there is no significant likelihood of his removal in the foreseeable future. He was granted withholding of removal to Syria, which is a clear barrier to his repatriation. See *Hmung v. Bondi*, 25-cv-1303, 2025 WL 3657221, at *3 (W.D. Okla. Dec. 9, 2025), *report and recommendation adopted*, 2025 WL 3670499 (W.D. Okla. Dec. 17, 2025); *Trejo v. Warden of ERO El*

Paso E. Montana, 25-cv-401, 2025 WL 2992187, at *5 (W.D. Tex. Oct. 24, 2025); *Misirbekov v. Venegas*, 25-cv-00168, 2025 WL 2450991, *1 (S.D. Tex. Aug. 15, 2025).

The burden shifts to the Government to provide evidence of a significant likelihood that Alebw will be deported in the reasonably foreseeable future. The Government provides a Declaration of Acting Field Office Director Justin Williams, who states that the Removal Division is “actively seeking a third country.” ECF No. 22-4. However, no third country has even been identified, and there are no requests for travel documents pending. Therefore, the likelihood of Alebw being deported in the reasonably foreseeable future is not significant.

Whatever latitude § 1231(a)(6) and executive policy may afford for temporary, good-faith efforts to secure travel documents, they do not permit the Government to hold anyone on American soil and in civil detention while it waits on speculative, undefined, and shifting possibilities of removal to countries whose willingness to receive him remain uncertain. *See Zadvydas*, 533 U.S. at 689–701. On this record, Alebw has plainly provided a good reason to believe there is no significant likelihood of his removal in the foreseeable future, and the Government has failed to meet its burden to refute that assertion.

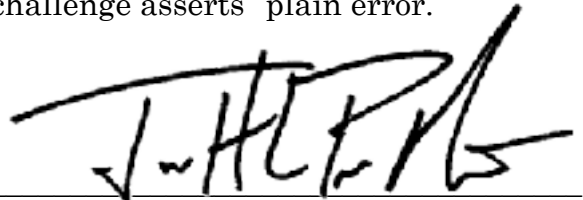
III. Conclusion

Because there is no significant likelihood of Alebw’s removal in the reasonably foreseeable future, IT IS RECOMMENDED that the Petition (ECF No. 1) be GRANTED and Alebw be RELEASED under appropriate conditions.

Under 28 U.S.C. § 636(b)(1)(c) and Fed. R. Civ. P. 72(b), a party may file written objections to this Report and Recommendation within 14 days of service, unless the Court grants an extension of time to file objections under Fed. R. Civ. P. 6(b). A party may also respond to another party's objections to this Report and Recommendation within 14 days of service of those objections, again unless the Court grants an extension of time to file a response to objections.

No other briefs may be filed without leave of court, which will only be granted for good cause. A party's failure to timely file written objections to this Report and Recommendation will bar a party from later challenging factual or legal conclusions adopted by the District Judge, except if the challenge asserts "plain error."

SIGNED on Monday, April 27, 2026.

A handwritten signature in black ink, appearing to read 'J. H. L. P. M.', written over a horizontal line.

JOSEPH H.L. PEREZ-MONTES
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

EBDALNASSR ALEBW

CASE NO. 3:26-CV-00073 SEC P

VERSUS

JUDGE ROBERT R. SUMMERHAYS

KRISTI NOEM ET AL

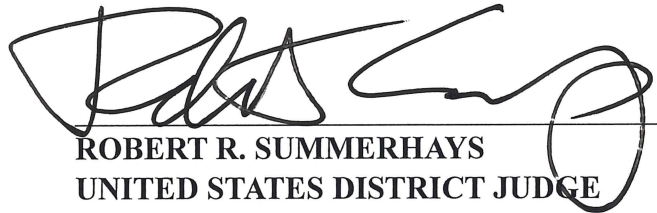
MAGISTRATE JUDGE PEREZ-MONTES

JUDGMENT

For the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein (Rec. Doc. 24), noting the absence of objection thereto, and concurring with the Magistrate Judge's findings under the applicable law;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Petition (Rec. Doc. 1) is **GRANTED**. Petitioner shall be released as soon as practical, but no later than seven days from this order, and with advance notice to counsel. The parties shall file a notice of compliance within 24 hours of release.

THUS, DONE AND SIGNED in Chambers this ^{12th} day of May, 2026.


ROBERT R. SUMMERHAYS
UNITED STATES DISTRICT JUDGE