



DETENTION WHEN YOU HAVE A FINAL REMOVAL ORDER: HOW TO FILE A LAWSUIT DEMANDING RELEASE

Who is this guide for?

This guide is for immigrants who are detained by Immigration and Customs Enforcement (ICE) and have a **final removal order, including individuals who were recently re-detained after years of living in the community**. Your removal order becomes final when you stop fighting your case, which means:

- When the immigration judge orders you removed and you give up your right to appeal, or the 30-day period to appeal expires.
- If you appeal, when the Board of Immigration Appeals dismisses your appeal.
- If you petition for review in the Court of Appeals and get a stay of removal, when the Court of Appeals dismisses your petition.

This guide is written specifically for immigrants detained at the Adelanto and Desert View Annex facilities in Adelanto, California. Because of the locations of these detention centers, immigrants detained there who file lawsuits seeking release will file in a federal court called the Central District of California.

How long can ICE hold me?

In a 2001 case called *Zadvydas v. Davis*, the U.S. Supreme Court ruled that ICE cannot hold immigrants **indefinitely** after they are ordered removed. In general, ICE is allowed to hold you for **a total of six months** after your removal order becomes final. After six months, if you can show that it is unlikely that you will be removed in the **reasonably foreseeable future**, you should be released. You can try to make this argument before six months of post removal order detention, but the argument is more difficult to win before you hit the six-month mark.

Some reasons why your removal is unlikely may include, for example: your home country does not have a repatriation agreement with the United States; your home country does not consider you a citizen and/or in the past has been unwilling to accept you back into that country; or you won protection against removal to your home country like deferral of removal under the Convention Against Torture (CAT) or Withholding of Removal.

Was my re-detention unlawful?

If you were released after getting a final order of removal, and then later re-detained, ICE may have re-detained you in an unlawful way. According to federal regulations, ICE must follow certain procedures when re-detaining people with final orders of removal, and ICE can only re-detain people for specific reasons. If ICE failed to follow these governing regulations, you may have a strong argument for release.

How do I file a lawsuit to get released?

If you have been detained for a total of six months with a final removal order **or** if ICE re-detained after many years of living in the community **and** you are detained at Adelanto or Desert View Annex, you can file a “petition for writ of habeas corpus” in the U.S. District Court for the Central District of California. If you are detained at a different facility, you will need to file in a different court and modify the sample petition. (If you must file in a different court, you should contact the attorney or organization that provided you with this guide and ask if they can give you a guide tailored to the court where you need to file)

1. Fill out the attached “Petition for Writ of Habeas Corpus.” You must write in English and you must sign and date the petition under penalty of perjury **on page 16**. Be sure to fill out the petition completely. Be sure to fill out **paragraph 15**, explaining why your removal is unlikely. For a *Zadvydas* claim, it is your burden to show that ICE probably cannot remove you. Also be sure to follow the instructions on **page 12** letting the court know which specific arguments apply to your case. Write legibly so the Court can easily read what you have written. You may, but are not required to, attach documents relevant to your claims, such as your removal order, your ICE reporting sheet, and your Notice of Revocation of Release.
2. If you want to ask the Court to appoint a free lawyer for you, fill out the attached “Motion for Appointment of Counsel” and proposed order granting the motion. It is generally better to get a free lawyer than to fight your case without a lawyer, so this is usually a good thing to request if you are filing your case yourself.
3. Prepare the filing fee of \$5.00 in cash or money order or check (made out to “Clerk, U.S. District Court”). If you cannot pay, fill out and sign the attached “Declaration and Application to Proceed In Forma Pauperis (“IFP”) in a Federal Habeas Action.” **If you want to be considered for a free lawyer, you must apply to be “in forma pauperis” instead of paying the \$5.00.**
4. Fill out the attached “Consent to Magistrate Judge” form. Under the Central District Court’s rules, habeas cases are ordinarily assigned to a District Judge and referred to a Magistrate Judge. In such cases, the Magistrate Judge prepares a “Report and

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Recommendation” for the District Judge to review and issue a final decision. You can choose to have your entire case handled by a Magistrate Judge by filling out and signing the attached “Consent to Magistrate Judge” form. If you consent, and if the Government Respondents (the opposing party in your habeas case) consent, then your case will be assigned to a Magistrate Judge. Consenting may help avoid delays associated with the “Report and Recommendation” process, but declining allows your case to be reviewed by two judges instead of one, which can sometimes be helpful. Consent is entirely voluntary and there is no penalty for declining consent.

5. Mail the originals of your petition, In Forma Pauperis form or filing fee, Motion for Appointment of Counsel and proposed order, and Consent to Magistrate Judge form to the address below. Also make an extra copy of all of these documents to keep for your records.

Clerk of the United States District Court for the Central District of California
Edward R. Roybal Federal Building & U.S. Courthouse
255 East Temple Street, Suite 180
Los Angeles, California 90012
ATTENTION: Intake/Docket Section

What happens after I file?

After you submit your petition to the Court, the Court will review your petition and, if it meets legal requirements, the Court will serve it on the Government Respondents. After your Petition is served, the Court will issue an order that sets deadlines for the Government Respondents to respond to the petition and for you to file a reply to the Government Respondents’ response. The Government Respondents will usually get 7 days to file a response, and *pro se* petitioners will usually get 14 days to file an optional response to the government’s filing. The Court will then review the filings and make a decision in your case.

If you are transferred to a different detention center or are released from detention, you need to **let the Court know, in writing, that your address has changed as soon as possible**. This ensures that all case filings can be sent to your correct mailing address and that you don’t miss any important filings. There are often important filings in your habeas case even after you are released from detention, so you need to update your address with the court even if you are released from ICE detention. Failure to keep a current address on file with the Clerk’s Office may result in the dismissal of your habeas case.

1 Name: _____

2 A Number: _____

3 Address: _____

4 _____

5 _____

6 PRO SE

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8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 Name: _____

12 _____,

13 Petitioner,

14 v.

15 Warden of the _____
16 Detention Facility; Field Office Director,
17 Los Angeles Field Office, United States
18 Immigration and Customs Enforcement;
19 Director, United States Immigration and
20 Customs Enforcement; Secretary, United
21 States Department of Homeland Security;
22 and United States Attorney General,

23 Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. §
2241**

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1 My name is [name] _____ (“Petitioner”)
2 and I hereby petition this Court for a writ of habeas corpus to remedy my unlawful
3 detention.

4 **I. JURISDICTION AND VENUE**

5 1. This Court has subject matter jurisdiction under 28 U.S.C. § 2241
6 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 1331 (federal
7 question), and 28 U.S.C. § 1346 (United States as Respondent). This Court also has
8 jurisdiction to hear this case under the Suspension Clause of Article I of the United
9 States Constitution. *INS v. St. Cyr*, 533 U.S. 289 (2001).

10 2. Because Petitioner is challenging their custody, jurisdiction is proper
11 in this Court. While the courts of appeals have jurisdiction to review removal orders
12 through petitions for review, *see* 8 U.S.C. §§ 1252(a)(1) and (b), the federal district
13 courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by
14 noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v.*
15 *Davis*, 533 U.S. 678, 687-88 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075-
16 76 (9th Cir. 2006). Petitioner has exhausted any and all administrative remedies to
17 the extent required by law.

18 3. Venue is proper in the Central District of California because this is the
19 district in which Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-
20 99 (9th Cir. 2024).

21 4. The Court may grant relief under the habeas corpus statutes, 28 U.S.C.
22 § 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All
23 Writs Act, 28 U.S.C. § 1651; the Due Process Clause of the Fifth Amendment; and
24 the Court’s inherent equitable powers.

25 **II. PARTIES**

26 5. Petitioner is a noncitizen who is currently detained by Immigration and
27 Customs Enforcement (ICE) at the [name of detention facility] _____
28

_____ in [city, state] _____.

6. Respondent Warden of the [name of detention facility] _____
_____ Detention Facility is Petitioner's immediate custodian. *See Doe*, 108 F.4th at 1194-97.

7. Respondent Field Office Director for the Los Angeles Field Office of ICE ("LA FOD") has the authority to order Petitioner's release or continued detention. As such, Respondent LA FOD is a legal custodian of Petitioner.

8. Respondent Director of ICE ("ICE Director") is the head of ICE, an agency within the United States Department of Homeland Security that detains and removes certain noncitizens. Respondent ICE Director is a legal custodian of Petitioner.

9. Respondent Secretary of the United States Department of Homeland Security ("DHS Secretary") is responsible for the implementation and enforcement of the immigration laws and oversees ICE. As such, Respondent DHS Secretary has ultimate custodial authority over Petitioner.

10. Respondent Attorney General of the United States ("U.S. A.G.") is the head of the United States Department of Justice, which oversees the immigration courts. Respondent U.S. A.G. shares responsibility for enforcement of the immigration laws with Respondent DHS Secretary.

11. All Respondents are sued in their official capacities.

III. STATEMENT OF FACTS

12. I was born in [country] _____ and I entered the United States on or about [date] _____. My immigration history is as follows [*describe briefly why you came to the U.S., how old you were when you arrived, and any lawful status you have had in the U.S.*]: _____

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6 13. I was ordered deported/removed by an Immigration Judge on or about
7 [date] _____. I was ordered deported/removed to the country of
8 [country listed on your removal order] _____. I
9 [circle one] DID / DID NOT appeal the Immigration Judge's decision to the Board
10 of Immigration Appeals (BIA). The BIA dismissed my appeal on or about [date, if
11 applicable] _____.

12 14. Since getting my deportation/removal order, I have been detained for a
13 total of approximately [number of months of post-removal order detention] _____
14 months. [describe how you have accumulated these months in detention – have you
15 been detained continuously since getting your removal order? Or were you
16 released and re-detained once or multiple times?] _____
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21 _____.

22 15. I have cooperated with ICE's efforts to remove me from the United
23 States. Nonetheless, ICE has not been able to remove me in the [number of years
24 since removal order] _____ years since I was ordered removed. For the following
25 reason[s], I do not believe there is a significant likelihood that ICE will be able to
26 remove me to the country identified in my deportation/removal order or to any
27 other country in the reasonably foreseeable future [for example, has ICE tried and
28

1 *failed to remove you for many years? Does your country of origin not consider you*
2 *a citizen? Do you have protection against removal to your country of origin, like*
3 *withholding of removal or CAT? What, if anything, has ICE told you about the*
4 *timeline for securing a travel document for your removal?]* _____
5 _____
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14 _____.

15 16. [If you were released after getting a final order of removal and then
16 later re-detained, describe your life during your period of release – were you
17 supporting any family members financially? Were you providing caregiving to any
18 family members? Did you check in with ICE when you were instructed to?] _____
19 _____
20 _____
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22 _____
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28 _____.

1 17. *[If you were released after getting a final order of removal and then*
2 *later re-detained, describe the circumstances of your re-detention in as much detail*
3 *as possible – where were you re-detained? Did ICE give you any notice in advance*
4 *of re-detaining you? Did ICE explain their reasons for re-detaining you, in writing*
5 *or verbally? Did you feel like you had the chance to argue against those reasons?]*

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17 _____.

18 18. *[Describe any ways in which detention is harming you and your*
19 *friends and family – for example, has detention harmed your health? Is your family*
20 *struggling financially and/or emotionally because of your detention?]* _____

21 _____
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28 _____.

IV. LEGAL FRAMEWORK

A. Post-Removal Order Detention is Constitutionally Suspect and not Authorized by Statute where Removal is not Reasonably Foreseeable

19. In *Zadvydas v. Davis*, the Supreme Court held that the immigration statute 8 U.S.C. § 1231(a)(6) does not allow ICE to detain a noncitizen indefinitely while attempting to carry out removal. 533 U.S. 678, 689 (2001). Because of the “serious constitutional problem” posed by indefinite detention, the Court read the statute to limit a noncitizen’s detention to “a period reasonably necessary to bring about that alien’s removal from the United States.” *Id.*

20. The Court also recognized six months as the “presumptively reasonable period” of post-removal order detention. *Id.* at 701. After six months, once the noncitizen provides “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the government to rebut that showing. *Id.* Moreover, “as the period of prior post removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.* In *Clark v. Martinez*, the Supreme Court held that its ruling in *Zadvydas* applies equally to noncitizens who have never been admitted to the United States. 543 U.S. 371 (2005).

21. Courts consider the cumulative length of post-order detention when determining if post-order detention exceeds the six-month “presumptively reasonable” period. *See, e.g., Nguyen v. Scott*, 796 F. Supp. 703, 721-22 (W.D. Wash. 2025); *Phan v. Warden of Otay Mesa Det. Facility*, 813 F. Supp. 3d 1179, 1184 (S.D. Cal. 2025); *Huynh v. Marin*, No. 5:26-cv-02405-SP, 2026 WL 1772734, at *2 (C.D. Cal. June 16, 2026). The six-month period of presumptive reasonableness set out in *Zadvydas* “outlined a ‘guide’ for approaching these detention challenges . . . not a prohibition on claims challenging detention less than six months.” *Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (C.D. Cal. 2018).

1
2 **B. Revocation of Post-Removal Order Release Must Comport with the**
3 **Governing Regulations**

4 22. The Government has promulgated regulations concerning the release
5 of noncitizens who are subject to a final removal order. 8 C.F.R. § 241.4; 8 C.F.R. §
6 241.13. Both regulations provide that, upon revocation of release, the noncitizen
7 “will be notified of the reasons for revocation of his or her release,” and will be
8 given “an initial informal interview promptly after his or her return to [ICE]
9 custody to afford the [noncitizen] an opportunity to respond to the reasons for
10 revocation.” 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3).

11 23. 8 C.F.R. § 241.4(l) only permits certain officials to revoke a
12 noncitizen’s release: the ICE Executive Associate Director, a field office director,
13 or an official “delegated the function or authority . . . for a particular geographic
14 district, region, or area.” *Cesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 160-61
15 (W.D.N.Y. 2025) (citing 8 C.F.R. § 241.4(l)(2) and § 1.2 and explaining that the
16 Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the
17 field office director, or another local ICE official with delegated authority—rather
18 than the ICE Executive Associate Director—intend to revoke release, they must
19 first make findings that “revocation is in the public interest and circumstances do
20 not reasonably permit referral of the case to the Executive Associate [Director].” 8
21 C.F.R. § 241.4(l)(2).

22 24. 8 C.F.R. § 241.13(i) further states that release can be revoked only
23 where the noncitizen violated their conditions of release or where the government
24 can show that, “on account of changed circumstances,” there has been a “significant
25 likelihood that the [noncitizen] may be removed in the reasonably foreseeable
26 future.” 8 C.F.R. § 241.13(i)(1), (2). The government requesting a travel document
27 and making conclusory statements that re-detention is warranted because
28 circumstances have changed such that removal is now reasonably foreseeable is

1 clearly insufficient to make this showing. *See Nguyen v. Noem*, 817 F. Supp. 3d
2 889, 897 (C.D. Cal. 2025); *Nguyen v. Scott*, 788 F. Supp. 3d at 150-52.

3 25. The government is required to follow these regulations in revoking a
4 noncitizen's release. *See Constantinovici v. Bondi*, 806 F. Supp. 3d 1155, 1164
5 (S.D. Cal. 2025) (citing *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260,
6 268 (1954)). When the government fails to follow these regulations, release is the
7 required remedy. *See, e.g., Nguyen v. Noem*, 817 F. Supp. 3d at 899.

8
9 **C. Right to Constitutionally Adequate Procedures Prior to Third-Country
Removal**

10 26. If ICE cannot remove an individual to the country or countries
11 specified in their removal order, an alternative country may be designated, but the
12 designation must occur "in the appropriate way." *See Aden v. Nielsen*, 409 F. Supp.
13 3d 998, 1009 (W.D. Wash. 2019); *Karimaghaee v. Bowen*, --- F. Supp. 3d ---, No.
14 5:25-cv-03573-SRM-JDE, 2026 WL 331360, at *5 (C.D. Cal., Feb. 5, 1016). "That
15 means the designation must be permitted by 8 U.S.C. § 1231(b) and the exercise of
16 discretion must comport with due process." *Aden*, 409 F. Supp. 3d at 1009.
17 Constitutional due process requires that noncitizens receive sufficient notice of the
18 country of deportation and a meaningful opportunity to be heard through reopened
19 removal proceedings. *See, e.g., Nguyen v. Scott*, 796 F. Supp. 3d at 727 (holding
20 that removal to a third country without meaningful notice and reopening of removal
21 proceedings would violate due process in violation of Ninth Circuit precedent
22 (citing *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999), *Najjar v. Lynch*,
23 630 F. App'x 724 (9th Cir. 2016), and *Sadychov v. Holder*, 565 F. App'x 648, 651
24 (9th Cir. 2014))); *Karimaghaee*, --- F. Supp. 3d ---, 2026 WL 331360, at *5.

25 27. Immigration laws prohibit removal to a third country where a person
26 may be persecuted or tortured. *See* 8 U.S.C. § 1231(b)(3)(A) (barring removal to a
27 country where the [noncitizen's] "life or freedom would be threatened . . . because
28

1 of [their] race, religion, nationality, membership in a particular social group, or
2 political opinion); Foreign Affairs Reform and Restructuring Act of 1998
3 (“FARRA”), Pub. L. No. 105-277, § 2242(a), 112 Stat. 2681 (1998) (codified as
4 Note to 8 U.S.C. § 1231) (codifying protections under the Convention Against
5 Torture) (“It shall be the policy of the United States not to expel, extradite, or
6 otherwise effect the involuntary return of any person to a country in which there are
7 substantial grounds for believing the person would be in danger of being subjected
8 to torture, regardless of whether the person is physically present in the United
9 States”).

10 28. These statutory protections are meaningless without meaningful notice
11 of a third-country removal and an opportunity to respond that comports with Fifth
12 Amendment due process requirements. *See Dep’t of Homeland Sec. v. D.V.D.*, 145
13 S. Ct. 2153, 2163 (2025) (Sotomayor, J., dissenting) (“[t]he Fifth Amendment
14 unambiguously guarantees [the] right” to notice of a third-country removal so that a
15 noncitizen “learn[s] about it in time to seek an immigration judge’s review”). The
16 Ninth Circuit held that “[f]ailing to notify individuals who are subject to
17 deportation that they have the right to apply for asylum in the United States and for
18 withholding of deportation to the country to which they will be deported violates
19 both [governing] regulations and the constitutional right to due process.”

20 *Andriasian*, 180 F.3d at 1041 (finding that “last minute” designation of alternative
21 country without meaningful opportunity to apply for protection “violate[s] a basic
22 tenet of constitutional due process”); *see also Najjar*, 630 F. App’x 724 (“[L]ast
23 minute orders of removal to a country may violate due process if an immigrant was
24 not provided an opportunity to address his fear of persecution in that country”).
25 “[W]ritten notice of the country being designated” is required and “the statutory
26 basis for the designation, i.e., the applicable subsection of § 1231(b)(2)” must be
27 specified. *See Aden*, 409 F. Supp. 3d at 1019; *see also D.V.D. v. Dep’t of Homeland*
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1 *Sec.*, 821 F. Supp. 3d 102, 167-68 (D. Mass. 2026), decision stayed pending appeal
2 by *D.V.D., et al v. U.S. Department of Homeland Security, et al.*, Case No. 26-1212
3 (1st Cir.) (declaring that individuals with final removal orders have the right to both
4 “meaningful notice before removal to any third country” a well as “a meaningful
5 opportunity to raise country-specific claim against removal before removal to any
6 third country”).

7 29. Additionally, the “guarantee of due process includes the right to a full
8 and fair hearing, an impartial decisionmaker, and evaluation of the merits of [a]
9 particular claim.” *Aden*, 409 F. Supp. 3d at 1010. These guarantees extend to the
10 third-country removal context because “third-country removals are subject to the
11 same mandatory protections that exist in removal or withholding-only
12 proceedings.” *D.V.D. v. U.S. Dep’t of Homeland Sec. DHS*, 778 F. Supp. 3d 355,
13 367 (D. Mass. 2025); *see also Vaskanyan v. Janecka*, No. 5:25-cv-01475-MRA-AS,
14 2025 WL 2014208, at *6 (C.D. Cal. June 25, 2025). Thus, due process requires a
15 reopening of immigration proceedings and a full and fair hearing before a third-
16 country removal can be effectuated. *See Elshourbagy v. Bondi*, 817 F. Supp. 3d
17 1102, 1109-11 (W.D. Wash. 2025); *Nguyen v. Scott*, 796 F. Supp. 3d at 728-29;
18 *Alic v. Dep’t of Homeland Sec./Immigr. Customs Enf’t*, No. 25-cv-01749-AJB-
19 BLM, 2025 WL 2799679, at *4 (S.D. Cal. Sept. 30, 2025) (enjoining third-country
20 removal “without notice and a meaningful opportunity to be heard in reopened
21 removal proceedings with a hearing before an immigration judge”).

22 30. Respondents’ current third-country removal program ignores these
23 statutory and constitutional procedural protections. According to an ICE policy
24 memorandum dated July 9, 2025, individuals are to be removed to third countries
25 “without the need for further procedures,” so long as “the [U.S.] has received
26 diplomatic assurances . . . that the noncitizen will not be persecuted or tortured and .
27 . . the Department of State believes those assurances to be credible.” *Nguyen v.*
28

1 *Scott*, 796 F. Supp. 3d at 728 (citing the July 9 policy memo). When there are no
2 diplomatic assurances, the policy provides no meaningful notice (6-24 hours),
3 instructs officers not to ask about fear, and provides no actual opportunity to
4 consult with counsel or prepare a fear-based claim, let alone to have a fear-based
5 claim adjudicated in reopened proceedings. *Id.* Because ICE’s current policy
6 instructs officers to violate statutory and constitutional requirements, any attempted
7 third-country removal of Petitioner would be unlawful and unconstitutional. *See id.*
8 (“It would be impossible to comply both with Ninth Circuit precedent and the
9 policy”); *Karimaghaee*, --- F. Supp. 3d ---, 2026 WL 331360, at *5.

10 **V. CLAIMS FOR RELIEF**

11 **COUNT ONE**

12 **Detention in violation of 8 U.S.C. § 1231(a)(6) and the Due Process Clause**

13 31. The foregoing allegations are realleged and incorporated herein.

14 32. Petitioner’s continued detention is unlawful and violates 8 U.S.C. §
15 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. The six-month
16 presumptively reasonable period of detention has expired (or the Petitioner has
17 demonstrated that the six-month presumption should be ignored here) and
18 Petitioner has provided good reason to believe that his or her removal is not
19 significantly likely to occur in the reasonably foreseeable future. *See Zadvydas*, 533
20 U.S. at 701; *Trinh*, 333 F. Supp. 3d at 994. Notably, the “standard for lawful
21 continued detention is not that the government simply continue ‘good faith efforts
22 to effectuate [removal],’ nor that a non citizen must show that removal is
23 impossible.” *S.F. v. Bostock*, No. 3:25-cv-01084-MTK, 2025 WL 2841022, at *4
24 (D. Or. Oct. 7, 2025) (citing *Zadvydas*, 533 U.S. at 702).

25 33. Under similar circumstances, courts have repeatedly found that
26 removal is not reasonably foreseeable and that detention is therefore no longer
27 authorized by § 1231(a)(6). *See, e.g., Nguyen v. Scott*, 796 F. Supp. 3d at 723;
28

1 *Karimaghaee*, --- F. Supp. 3d ---, 2026 WL 331360, at *4-5; *Isho v. D. Marin*, --- F.
2 Supp. 3d ---, No. 5:26-cv-00764-CV (AS), 2026 WL 855746, at *3-4 (C.D. Cal.
3 Mar. 4, 2026).

4 34. Accordingly, Respondents cannot meet their burden to show that
5 removal is reasonably foreseeable, Petitioner's detention is no longer authorized
6 under § 1231(a)(6), and this Court should order Petitioner's immediate release.

7 **COUNT TWO**

8 **Re-detention in violation of the governing regulations**

9 **[Mark one of the boxes below]**

10 ☐ I am not pursuing Count Two because I have been detained by ICE
11 continuously since the day I was ordered removed.

12 ☐ I am pursuing Count Two because I was previously released from ICE
13 detention after receiving a removal order and then ICE detained me again without
14 following the governing regulations, as described below.

15
16 35. The foregoing allegations are realleged and incorporated herein.

17 36. Respondents violated the governing regulations when they re-detained
18 Petitioner and release is therefore required.

19 37. First, as described in the fact section above, ICE failed to adequately
20 notify Petitioner of "the reasons for revocation" of release and failed to provide
21 Petitioner with a meaningful opportunity to respond to those reasons at a prompt,
22 informal interview, in violation of the governing regulation. *See* 8 C.F.R. §§
23 241.13(i)(3), 241.4(l)(1). "Courts in this district, circuit, and across the country
24 have held that [] vague, generic statement[s]" in a notice of revocation of release
25 provide "insufficient notice" of the reasons for revocation. *Nguyen v. Noem*, 817 F.
26 Supp. 3d at 899; *see also Hashemi v. Noem*, 809 F. Supp. 3d 1027, 1034-35 (C.D.
27 Cal. 2025); *id.* at 1030 ("While the government points to a paper trail suggesting it
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1 complied with the requirements governing the revocation of release . . . the Court
2 finds that this appearance of process was a sham”). ICE’s failure to provide
3 Petitioner with a prompt interview and an opportunity to respond to ICE’s stated
4 reasons for revocation is reason enough to find Petitioner’s detention unlawful. *See*,
5 *e.g.*, *Phan v. Noem*, No. 3:25-cv-02422-RBM-MSB, 2025 WL 2898977, at *3-4
6 (S.D. Cal. Oct. 10, 2025); *Yang v. Kaiser*, No. 2:25-cv-02205-DAD-AC (HC), 2025
7 WL 2791778, at *5 (E.D. Cal. Aug. 20, 2025).

8 38. Second, as described in the fact section above, there is no evidence
9 that Petitioner has violated their terms of release such that re-detention was
10 warranted. 8 C.F.R. §§ 241.13(i)(1), 241.4(l)(1). Nor was re-detention warranted
11 under 8 C.F.R. § 241.13(i)(2), because ICE has failed to meet its burden of
12 establishing that circumstances have changed such that there is now a “significant
13 likelihood” that the individual can be “removed in the reasonably foreseeable
14 future.” *See* 8 C.F.R. § 241.13(i)(2); *Sun v. Noem*, No. 3:25-cv-02433-CAB-MMP,
15 2025 WL 2800037, at *2-3 (S.D. Cal. Sept. 30, 2025). There is no indication that
16 ICE has secured a travel document for Petitioner. A pending travel document
17 request is insufficient to establish changed circumstances justifying re-detention.
18 *See, e.g.*, *Phan v. Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *5
19 (E.D. Cal. July 16, 2025); *Nguyen v. Noem*, 817 F. Supp. 3d at 896-98.

20 39. Third, if 8 C.F.R. § 241.4 governs Petitioner’s re-detention and
21 Petitioner’s release was not revoked by the ICE Executive Associate Director and if
22 the local ICE officer who made the decision to revoke release did not first make the
23 required findings that revocation was in the public interest and that circumstances
24 did not reasonably permit referral to the ICE Executive Associate Director, then the
25 individual who revoked Petitioner’s release did not have authority to do so. *See* 8
26 C.F.R. § 241.4(l)(2); *See M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL
27 2430267, at *9-10, 12 (D. Or. Aug. 21, 2025). The fact that Petitioner’s release was
28

1 not revoked by an authorized individual alone would be sufficient on its own to
2 warrant release. *See Ceesay*, 781 F. Supp. 3d at 162.

3 40. Because ICE failed to follow their own regulations, release is
4 warranted. *Accardi*, 347 U.S. at 268; *Nguyen v. Noem*, 817 F. Supp. 3d at 899; *Isho*,
5 --- F. Supp. 3d ---, 2026 WL 855746, at *4-5.

6 **COUNT THREE**

7 **Third-country removal in violation of the Due Process Clause, 8 U.S.C. § 1231,** 8 **the Convention Against Torture, and governing regulations**

9 41. The foregoing allegations are realleged and incorporated herein.

10 42. The Fifth Amendment, the INA, the Convention Against Torture, and
11 governing regulations mandate meaningful notice and opportunity to respond to any
12 attempt to remove Petitioner to a third country in reopened removal proceedings.
13 Respondents' policy for third country removals is unlawful because it directs ICE
14 agents to remove individuals to third countries without any notice or process *at all*
15 where diplomatic assurances are received and, where no diplomatic assurances are
16 received, to provide flagrantly insufficient notice (6-24 hours) and opportunity to
17 respond, in violation of governing the statutes and regulations and the Fifth
18 Amendment.

19 43. Prior to any third-country removal, Respondents must provide
20 Petitioner with constitutionally and statutorily compliant notice and an opportunity
21 to present any fear-based claims in reopened removal proceedings. *See, e.g. Nguyen*
22 *v. Scott*, 796 F. Supp. 3d at 727-29 (citing *Andriasian*, 180 F.3d at 1041, *Najjar*,
23 630 F. App'x 724, and *Sadychov*, 565 F. App'x at 651); *Elshourbagy*, 817 F. Supp.
24 3d at 1109-11; *A.A.M. v. Andrews*, 815 F. Supp. 3d 1124, 1141 (E.D. Cal. 2025);
25 *Karimaghaee*, --- F. Supp. 3d ---, 2026 WL 331360, at *5-6.

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VI. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Issue an order pursuant to 28 U.S.C. § 2243 directing Respondents to show cause why the writ of habeas corpus should not be granted;
- 3) Grant the writ of habeas corpus and order Petitioner's immediate release from custody;
- 4) Order that Respondents are permanently enjoined and restrained from re-detaining Petitioner unless they follow the requirements of the governing regulations and any other governing law;
- 5) Order that Respondents are permanently enjoined and restrained from effectuating Petitioner's third-country removal unless Respondents adhere to the following procedures:
 - a. Provide Petitioner and their counsel (if represented) a minimum of ten (10) days to raise a fear-based claim for protection prior to removal;
 - b. If Petitioner demonstrates reasonable fear of removal to the third country, Respondents must move to reopen Petitioner's removal proceedings;
 - c. If Petitioner is not found to have demonstrated a reasonable fear of removal to the third country, Respondents must provide a meaningful opportunity, and a minimum of fifteen (15) days for Petitioner to seek reopening of their immigration proceedings.
- 6) Order all other relief that the Court deems just and proper.

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Date	Printed Name
	Signature

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Petitioner

**CONSENT TO
MAGISTRATE JUDGE**

Respondent(s)

I. NOTICE OF MAGISTRATE JUDGE'S AVAILABILITY

1. Under the Court's rules, habeas cases are ordinarily assigned to a district judge and referred to a magistrate judge. For any final ruling in the case, the assigned magistrate judge prepares a "Report and Recommendation" for the district judge to review. After reviewing the "Report and Recommendation," the district judge will make a final ruling.
2. A magistrate judge is available under 28 U.S.C. § 636 (c) to conduct all proceedings in this case, including a final ruling on your claims. However, a magistrate judge can handle all matters in the case if all parties voluntarily consent.
3. The Court encourages parties to consent to magistrate judge jurisdiction. Consent allows the case to proceed before a single judicial officer and avoids the delay associated with the preparation and review of a "Report and Recommendation."
4. However, consent is entirely voluntarily and you are free to withhold consent to magistrate judge jurisdiction. There is no penalty for declining consent.
5. If both parties consent to have a magistrate judge decide the case, the Court will determine whether to assign the case to a magistrate judge for all purposes. If the case is so assigned, the case will proceed only before the magistrate judge. Either party may appeal the magistrate judge's rulings directly to the Ninth Circuit Court of Appeals, as if a district judge had decided the matter.
6. If both parties do not consent to have a magistrate judge decide the case, the case will be assigned to a district court judge and referred to a magistrate judge.

II. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES

- ☐ **I consent and agree the case can be assigned only to a Magistrate Judge**
- ☐ **I do not consent that the case can be assigned only to a Magistrate Judge**

Executed on: _____
Date

Signature of Petitioner

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER

PLAINTIFF/PETITIONER

v.

DEFENDANT/RESPONDENT

**REQUEST TO PROCEED IN FORMA PAUPERIS WITH
DECLARATION IN SUPPORT**

I, _____ declare under penalty of perjury, that the foregoing is true and correct; that I am the petitioner/plaintiff in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefore, I state that because of my poverty I am unable to pay the costs of said proceedings or to give security therefore and that I am entitled to redress.

I further declare under penalty of perjury that the responses which I have made to the questions and instructions below are true, correct and complete.

1. Are you currently employed? ☐ Yes ☐ No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer: _____

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

2. Have you received, *within the past twelve months*, any money from any of the following sources?

Public benefits? ☐ Yes ☐ No

Business, profession or form of self-employment? ☐ Yes ☐ No

Rent payments, interest or dividends? ☐ Yes ☐ No

Pensions, annuities or life insurance payments? ☐ Yes ☐ No

Gifts or inheritances? ☐ Yes ☐ No

Any other income (other than listed above)? ☐ Yes ☐ No

Loans? ☐ Yes ☐ No

Any other income (other than listed above)? ☐ Yes ☐ No

If the answer to any of the above is yes, describe such source of money and state the amount received from each source during the past twelve (12) months: _____

3. Do you own any cash, or do you have money in a checking or savings account? (include any funds in prison accounts, if applicable) ☐ Yes ☐ No

If the answer is yes, identify each account and separately state the amount of money in each account for each of the *six (6) months* prior to the date of this declaration. _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☐ Yes ☐ No

If you answer is yes, describe the property and state its approximate value: _____

5. In what year did you last file an Income Tax Return? _____

Approximately how much income did your last return reflect? _____

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: _____

7. Estimate your average monthly expenses below:

Housing		Credit Cards	
Transportation		Child Care	
Food		Insurance	
Medical		Loans	
Utilities		Other	

State

County (or City)

I, _____ declare under penalty of perjury that the foregoing is true and correct. Executed on:

Date

Plaintiff (Signature)

1 Name: _____

2 A Number: _____

3 Address: _____

4 _____

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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 Name: _____

12 _____,

13 Petitioner,

14 v.

15 Warden of the _____
16 Detention Facility; Field Office
17 Director, Los Angeles Field Office,
18 United States Immigration and Customs
19 Enforcement; Director, United States
20 Immigration and Customs Enforcement;
21 Secretary, United States Department of
Homeland Security; and United States
Attorney General,

22 Respondents.
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Case No.

**MOTION FOR APPOINTMENT
OF COUNSEL PURSUANT TO
18 U.S.C. § 3006A**

25 My name is [*name*] _____ and I
26 have filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 challenging
27 my unlawful detention. I was detained by Immigration and Customs Enforcement
28

1 (ICE) on or about [*date*] _____. I have remained
2 in ICE custody since that date.

3 The concurrently filed petition for writ of habeas corpus sets forth my
4 eligibility for a writ of habeas corpus ordering my release.

5 I hereby move the Court to appoint counsel to represent me in this case. The
6 Court may appoint counsel in a habeas action when the “interests of justices so
7 require.” 18 U.S.C. § 3006A(a)(2)(B). I have a strong chance of success on the
8 merits as explained in the concurrently filed petition for writ of habeas corpus.
9 However, given the complexity of the law on immigration detention and my status
10 as a detained immigrant, I would have great difficulty presenting the case without
11 the assistance of counsel.

12 Additionally, [*share any additional reasons that you need an attorney, for*
13 *example if you do not understand written English, or if you have mental health*
14 *issues*] _____
15 _____
16 _____
17 _____.

18 For these reasons, I respectfully request that the Court appoint counsel.
19

20
21 _____
22 Date

21 _____
22 Printed Name

23 _____
24 Signature
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1 Name: _____

2 A Number: _____

3 Address: _____

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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 Name: _____

12 _____,

13 Petitioner,

14 v.

15 Warden of the _____
16 Detention Facility; Field Office
17 Director, Los Angeles Field Office,
18 United States Immigration and Customs
19 Enforcement; Director, United States
20 Immigration and Customs Enforcement;
21 Secretary, United States Department of
22 Homeland Security; and United States
23 Attorney General,

24 Respondents.
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Case No.

**[PROPOSED] ORDER
GRANTING MOTION FOR
APPOINTMENT OF COUNSEL
PURSUANT TO 18 U.S.C.
§ 3006A**

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[Proposed] Order

The Court finds, pursuant to 18 U.S.C. § 3006A(a)(2)(B), that the interests of justices require appointment of counsel. Accordingly, IT IS HEREBY ORDERED that Petitioner’s motion for appointment of counsel is GRANTED.

IT IS SO ORDERED

Dated: _____

Honorable United States Judge