

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ARSALAN RAHIMI,
Petitioner,
v.
FERETI SEMAIA, *et al.*,
Respondents.

Case No. ED CV 26-00116-DMG (RAO)

**ORDER GRANTING PETITION
FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

On January 11, 2026, Arsalan Rahimi (“Petitioner”), represented by counsel, filed the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (“Petition”) against respondents Pamela Bondi, Kristi Noem, Fereti Semaia, and Thomas Giles (collectively, “Respondents”), challenging his detention in Immigration and Customs Enforcement (“ICE”) custody. “Pet.” [Doc. # 1]. The Court entered an order on January 13, 2026, requiring a response to the Petition. [Doc. # 4.] On January 23, 2026, Respondents filed an Answer (“Answer”) to the Petition stating that “Respondents do not have an opposition argument to present.” “Ans.” [Doc. # 6].

For the following reasons, the Court GRANTS the Petition.

1 **II. BACKGROUND**

2 Petitioner, a citizen of Afghanistan, was detained at the ICE Processing Center
3 in Adelanto, California (“Adelanto”), at the time the Petition was filed. Pet. ¶ 14.
4 Petitioner entered the United States without inspection on or about January 16, 2025,
5 at or near Nogales, AZ. *Id.* ¶ 25. At or near Nogales, AZ, U.S. Customs and Border
6 Protection detained him shortly after his entry into the United States. *Id.*

7 Petitioner states that “ICE has attempted to remove Mr. Rahimi to Afghanistan
8 but has been unable to do so for reasons beyond Mr. Rahimi’s control.” Pet. ¶ 54.
9 Petitioner alleges that he “has fully cooperated with ICE’s efforts to remove him from
10 the United States” and “provided all requested information and signed the
11 Afghanistan passport application form.” *Id.* ¶ 55. Petitioner further explains that
12 “[d]espite repeated requests, no travel document has issued by the Afghan
13 government to Mr. Rahimi.” *Id.* ¶ 56. Petitioner asserts that there is no “established
14 practice for repatriating noncitizens like Mr. Rahimi to Afghanistan as the United
15 States does not recognize Taliban as the official government of Afghanistan, and
16 DHS has not identified any third country that is willing to accept Mr. Rahimi.” *Id.*
17 ¶ 57. Petitioner contends that he has been “detained in DHS custody for
18 approximately 11 months after the beginning of the removal period.” *Id.* ¶ 58.

19 In his Petition, Petitioner asserts four claims for relief: (1) that his continued
20 detention is unlawful and violates 8 U.S.C. § 1231(a)(6) as interpreted by the United
21 States Supreme Court in *Zadvydas v. Davis*, 533 U.S.678 (2001); (2) that his
22 continued detention violates his right to substantive due process; (3) that his
23 continued detention violates his right to procedural due process; and (4) that his
24 continued detention violates ICE’s Post-Final-Order Custody Review under 8 C.F.R.
25 § 241.4. Pet. ¶¶ 78–122.

26 Petitioner seeks, *inter alia*, a writ of habeas corpus directing Respondents to
27 release him from custody immediately, enjoin Respondents from transferring him
28 outside of the jurisdiction of the Central District of California pending the resolution

1 of this case, declare that his detention violates 8 U.S.C. § 1231(a)(6) and the Due
2 Process Clause of the Fifth Amendment, enjoin Respondents from re-detaining
3 Petitioner unless a custody hearing is held before a neutral arbiter in which the
4 government bears the burden of proving, by clear and convincing evidence, that
5 materially changed circumstances have established that Petitioner is a danger to the
6 community or a flight risk, and award costs and reasonable attorney fees under the
7 Equal Access to Justice Act (“EAJA”), 5 U.S.C. § 504, and 28 U.S.C. § 2412(b), and
8 any other applicable law. *Id.* at 39–40.

9 On January 23, 2026, Respondents filed an Answer to the Petition stating that
10 “Respondents do not have an opposition argument to present.” *See* Ans.

11 **III. LEGAL STANDARD**

12 A court may grant a writ of habeas corpus to a petitioner who demonstrates to
13 be in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3).
14 The statute does not require a person to be physically imprisoned to be in custody;
15 rather, habeas relief is available where the person is subject to “restraints not shared
16 by the public generally.” *Jones v. Cunningham*, 371 U.S. 236, 240 (1963).

17 **IV. DISCUSSION**

18 Petitioner argues his detention is unlawful and violates 8 U.S.C. § 1231(a)(6)
19 as interpreted by the United States Supreme Court in *Zadvydas*. Pet. ¶¶ 78–92. The
20 Court agrees.

21 “[T]he Due Process Clause applies to all ‘persons’ within the United States,
22 including aliens, whether their presence here is lawful, unlawful, temporary, or
23 permanent.” *Zadvydas*, 533 U.S. at 693. “Freedom from imprisonment—from
24 government custody, detention, or other forms of physical restraint—lies at the heart
25 of the liberty that Clause protects.” *Id.* at 690. The government therefore may detain
26 individuals outside of the criminal context only “in certain special and ‘narrow’
27 nonpunitive ‘circumstances.’” *Id.* (citing *Foucha v. Louisiana*, 504 U.S. 71, 80
28 (1992)).

1 As the *Zadvydas* Court noted, Section 1231(a)(6) allows the government to
2 detain certain aliens who have been ordered removed for longer than the 90 days
3 otherwise permitted. *Id.* at 688–89. While the statute itself does not set a maximum
4 length of time for such post-removal detention, a “statute permitting indefinite
5 detention of an alien would raise a serious constitutional problem.” *Id.* at 690. Thus,
6 the Supreme Court held that “[t]here is no sufficiently strong special justification here
7 for indefinite civil detention—at least as administered under this statute.” *Id.* While
8 there are two permissible goals for *some* post-removal detention—“preventing flight”
9 and “protecting the community,” *id.* at 690—these goals do not automatically justify
10 *indefinite* detention. “[T]he first justification—preventing flight—is weak or
11 nonexistent where removal seems a remote possibility at best.” *Id.* And the second
12 justification—protecting the community—is “limited to specially dangerous
13 individuals and subject to strong procedural protections.” *Id.* In order “to avoid a
14 serious constitutional threat,” the Supreme Court interpreted Section 1231(a)(6) such
15 that “once removal is no longer reasonably foreseeable, continued detention is no
16 longer authorized by statute.” *Zadvydas*, 533 U.S. at 699. The Supreme Court went
17 on to hold that, after a presumptively reasonable six-month detention period, “once
18 the alien provides good reason to believe that there is no significant likelihood of
19 removal in the reasonably foreseeable future, the Government must respond with
20 evidence sufficient to rebut that showing.” *Id.* at 701.

21 Here, Petitioner’s detention is no longer presumptively reasonable under
22 *Zadvydas*. Petitioner has been continuously detained since January 16, 2025. Pet.
23 ¶ 24. Petitioner has therefore been detained for almost twice the time found
24 presumptively reasonable in *Zadvydas*. Petitioner’s detention of approximately 11
25 months is not presumptively reasonable. *Zadvydas*, 533 U.S. at 701.

26 Further, Section 1231(a)(6) no longer authorizes Petitioner’s detention
27 because there is no significant likelihood that he will be removed in the reasonably
28 foreseeable future. Petitioner explains that “ICE has attempted to remove Mr. Rahimi

1 to Afghanistan but has been unable to do so for reasons beyond Mr. Rahimi’s
2 control.” Pet. ¶ 54. Petitioner further asserts that “[d]espite repeated requests, no
3 travel document has issued by the Afghan government to Mr. Rahimi.” *Id.* ¶ 56.
4 Petitioner states that there is no “established practice for repatriating noncitizens like
5 Mr. Rahimi to Afghanistan as the United States does not recognize Taliban as the
6 official government of Afghanistan, and DHS has not identified any third country
7 that is willing to accept Mr. Rahimi.” *Id.* ¶ 57. There is nothing in the record to
8 suggest any likelihood that Petitioner will be deported to Afghanistan in the
9 reasonably foreseeable future. Petitioner has thus shown there is good reason to
10 believe that there is no significant likelihood of Petitioner’s removal in the reasonably
11 foreseeable future.

12 Given that Petitioner has carried his burden, the burden shifted to Respondents
13 to produce evidence showing that Petitioner’s removal is significantly likely.
14 *Zadvydas*, 533 U.S. at 701. Here, Respondents conceded that they
15 “do not have an opposition argument to present” at this time. *See Ans.* Because
16 Respondents have not put forth evidence showing that Petitioner’s removal is
17 significantly likely, Petitioner’s detention is no longer authorized by Section
18 1231(a)(6), and he must be released. In sum, the Court finds that Petitioner has
19 provided good reason to believe that his removal is not significantly likely in the
20 reasonably foreseeable future and Respondents have failed to rebut that showing. *See*
21 *Asfestani v. Current or Acting Field Office Director, San Francisco Field Office,*
22 *United States Immigration and Customs Enforcement*, No. CV 25-1562-SCR, 2025
23 WL 3677321, at *5 (E.D. Cal. Dec. 18, 2025) (the government’s lack of explanation
24 as to the “steps ICE has been taking to attempt to secure petitioner’s removal since it
25 redetained him nearly six months ago” indicated that “there [was] no significant
26 likelihood of petitioner’s removal in the reasonably foreseeable future”).

27 Petitioner’s other claims are rendered moot by the Court’s conclusion that
28 Petitioner must be released under *Zadvydas*. The Court therefore does not address

1 the merits of the other issues presented by the Petition.

2 **V. ATTORNEY’S FEES**

3 Petitioner requests costs and reasonable attorney’s fees in this action pursuant
4 to the Equal Access to Justice Act, 28 U.S.C. § 2412. Pet. at 40. The Court will
5 consider an application requesting costs and reasonable attorney’s fees under the
6 EAJA that is filed within 30 days of final judgment in this action. See 28 U.S.C. §
7 2412(d)(1)(B).

8 **VI. CONCLUSION**

9 For the foregoing reasons, Petitioner’s Petition for a writ of habeas corpus is
10 **GRANTED. IT IS HEREBY ORDERED THAT:**

- 11 ▪ Respondents must release Petitioner from custody immediately and must
- 12 file a notice of compliance with this order, notifying the Court that
- 13 Petitioner has been released, no later than January 30, 2026;
- 14 ▪ While Petitioner is in Respondents’ custody, Respondents are ENJOINED
- 15 from relocating Petitioner outside of the Central District of California
- 16 pending final resolution of this case; and
- 17 ▪ Respondents are ENJOINED from re-detaining Petitioner unless a custody
- 18 hearing is held before a neutral arbiter in which the government bears the
- 19 burden of proving, by clear and convincing evidence, that materially
- 20 changed circumstances have established that Petitioner is a danger to the
- 21 community or a flight risk.

22 IT IS SO ORDERED.

23
24 DATED: January 27, 2026

25 
 26 _____
 DOLLY M. GEE
 CHIEF UNITED STATES DISTRICT JUDGE