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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

OMAR AMEEN,
Petitioner

vs.

PAMELA BONDI, in her official capacity,
Attorney General of the United States;
KRISTI NOEM, in her official capacity, Secretary
of the U.S. Department of Homeland Security;
ORESTES CRUZ, in his official capacity, Acting
Director of the San Francisco ICE Field Office;
TONYA ANDREWS, in her official capacity,
Facility Administrator of Golden State Annex,
Respondents.

Case No.:
IMMIGRATION HABEAS CASE

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

INTRODUCTION

1. Petitioner Omar Ameen respectfully asks this Court to issue a writ of habeas corpus ordering his release from unlawful detention pursuant to 28 U.S.C. § 2241.
2. Mr. Ameen was resettled in the United States as a refugee from Iraq in 2014 along with his wife and three children. His three children all now currently have lawful permanent residence in the United States. Mr. Ameen and his wife have also since had an American citizen child. Mr. Ameen contributed to his community by working two jobs, taking courses to integrate fully into the United States, and sharing food with his neighbors.
3. Beginning in 2018, Mr. Ameen was the victim of a malicious campaign by the United States government, when the Department of Justice (“DOJ”) requested Mr. Ameen be extradited to Iraq on false allegations about a 2014 murder.
4. Mr. Ameen was held for over two years in U.S. Marshal custody before Magistrate Judge Edmund F. Brennan declined to order Mr. Ameen’s extradition. Not only did Judge Brennan find that the government and their witnesses’ accounting of events contained multiple errors, but he also found that Mr. Ameen was not even in Iraq at the time of the murder and therefore could not have committed it. He also found no corroborating evidence that Mr. Ameen had any involvement with the Islamic State (“ISIS”).
5. Judge Brennan ordered Mr. Ameen to be released. But upon his release from U.S. Marshal custody, Immigration and Customs Enforcement (“ICE”) took Mr. Ameen into custody for removal proceedings. Mr. Ameen has been held in ICE custody since 2021.
6. After two years and multiple legal proceedings, including a full removal hearing, two bond hearings, cross appeals to the Board of Immigration Appeals (“BIA”), a case brought under the Freedom of Information Act in the U.S. District Court for the District

of Columbia, a habeas petition filed in the U.S. District Court for the Northern District of California, and cross appeals to the Ninth Circuit Court of Appeals, the parties entered into a global Settlement Agreement to resolve all of Mr. Ameen's pending legal matters on September 1, 2023.

7. This Settlement Agreement, among other provisions, extended the time that the government would have to find a third-party country for Mr. Ameen. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), the government typically has 6 months to remove an individual, or else the individual has to be released. This Settlement Agreement stated Mr. Ameen would not challenge his detention until 18 months after his filed written notice of withdrawal of appeal. Mr. Ameen became eligible to challenge his detention on March 5, 2025.

8. Upon information and belief, there is no prospect that the government will find a country that will accept Mr. Ameen. Despite having three times the normal amount of time to find a country, the government has thus far failed to do so. Mr. Ameen has received no information from the government regarding any developments that would suggest his removal is reasonably foreseeable.

9. Any continued detention of Mr. Ameen violates the Fifth Amendment's Due Process Clause pursuant to *Zadvydas*. The government cannot constitutionally detain him any longer.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this petition pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and the Suspension Clause of the United States Constitution, art. I, § 9, cl. 2.

11. Mr. Ameen’s current detention constitutes a “severe restraint[]” on his individual liberty such that Mr. Ameen is “in custody” of the Respondents in violation of the laws of the United States. *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241.
12. While only the federal courts of appeals have jurisdiction to review removal orders through petitions for review under 8 U.S.C. § 1252(a), federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness of detention by the Department of Homeland Security (“DHS”). *See, e.g., Jennings v. Rodriguez*, 583 U.S. 281, 289–91 (2018); *Demore v. Kim*, 538 U.S. 510, 514–15 (2003); *Zadvydas*, 533 U.S. at 687–88.
13. 8 U.S.C. § 1226(e) does not prevent this Court from exercising jurisdiction over Mr. Ameen’s petition because he does not seek review of a discretionary decision. Rather, Mr. Ameen challenges his detention on constitutional and statutory grounds. *Gutierrez-Chavez v. I.N.S.*, 298 F.3d 824, 829 (9th Cir. 2002) (“[C]laims that the discretionary process was constitutionally flawed . . . are cognizable in federal court on habeas because they fit comfortably within the scope of § 2241.”); *see also Jennings*, 583 U.S. at 841 (“Because the extent of the Government’s detention authority is not a matter of ‘discretionary judgment,’ . . . respondents’ challenge to ‘the statutory framework that permits [their] detention without bail’ falls outside of the scope of § 1226(e).”) (alteration in original) (quoting *Demore*, 538 U.S. at 516–17).
14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973); *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024); and 8 U.S.C. §§ 1391(b)(1)–(2), venue is proper in the United States District Court for the Eastern District of California.

1 15. Mr. Ameen is detained at the Golden State Annex, a facility that is under the
2 jurisdiction of the ICE Field Office in San Francisco and in the Eastern District of
3 California.

4 16. As the Acting Director of the ICE Field Office in San Francisco, Respondent Orestes
5 Cruz is located within the district and is one of Mr. Ameen's legal custodians. *Singh v.*
6 *Barr*, No. 20-cv-02346-VKD, 2020 WL 2512410, at *4 (N.D. Cal. May 15, 2020); *Doe*
7 *v. Barr*, No. 20-cv-02263-RMI, 2020 WL 1984266, at *5 (N.D. Cal. Apr. 27, 2020).

8
9 **PARTIES**

10 17. Petitioner Omar Ameen is a 51-year-old husband and father of four who, prior to his
11 detention, resided in Sacramento, California with his wife and children. He and his family
12 entered the country as refugees from Iraq in 2014.

13 18. Respondent Pamela Bondi is the Attorney General of the United States, the most senior
14 official in the DOJ and named in her official capacity. The Attorney General delegates
15 responsibility over removal proceedings, including custody redeterminations, to the
16 Executive Office of Immigration Review, which administers the immigration courts and
17 the BIA. She is a legal custodian of Mr. Ameen with authority to authorize his release.

18 19. Respondent Kristi Noem is the Secretary of DHS and named in her official capacity.
19 ICE, which is detaining Mr. Ameen, is a sub-agency of DHS.

20 20. Respondent Orestes Cruz is the Acting Director of the ICE Field Office in San Francisco
21 and is a legal custodian of Mr. Ameen.

21. Respondent Tonya Andrews is the Facility Administrator of the Golden State Annex. The Facility Administrator is the “de facto warden” of the Golden State Annex. *Doe*, 109 F.4th at 1190.¹

STATEMENT OF FACTS

I. Mr. Ameen’s Background

22. Mr. Ameen is a 51-year-old Sacramento resident who has been in the United States for over ten years. He arrived in the United States on November 4, 2014, as a refugee from Iraq.

23. Mr. Ameen has no prior criminal record, nor has he committed any crimes after arriving in the United States.

24. Mr. Ameen’s wife is a refugee, his three older children are lawful permanent residents, and his youngest child, J.A., is a United States citizen.

25. Mr. Ameen is a committed and caring family man. He has been married to his wife, Khansaa Sabri, for over 20 years.

26. Mr. Ameen worked hard to set down roots for his family in Sacramento. His neighbors recall the Ameens as a welcoming, peaceful family who regularly shared their desserts. One neighbor, motivated by Mr. Ameen’s friendly and helpful nature, offered him a job at a repair shop. Mr. Ameen worked there for nearly two years.

¹ Pursuant to the Ninth Circuit’s recent decision in *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024), Tonya Andrews is the proper respondent because she is the de facto warden of the facility at which Petitioner is detained. A petition for en banc rehearing is pending in that case, however, so the other respondents are named herein to ensure effective relief and continued jurisdiction in this case.

1 27. Before August 2018, Mr. Ameen was working two jobs and enrolled at American River
2 College where he took English and vocational classes to better integrate into the
3 community.

4 **II. Mr. Ameen's Arrest and Extradition Proceedings**

5 28. On August 15, 2018, the Federal Bureau of Investigation (FBI), an agency within the
6 DOJ, arrested Mr. Ameen, executed a search warrant on his residence, transported him to
7 the FBI field office, and interrogated him. He has been in federal custody since that day,
8 even though the U.S. government has never charged him with a crime.

9 29. His 2018 arrest stemmed from an investigation initiated by the FBI together with other
10 agencies that make up the Joint Terrorism Task Force ("JTTF").

11 30. A witness who spoke to the FBI during its investigation of Mr. Ameen accused him of
12 murdering a man named Ihsan Jasim, a member of the Rawah police who had
13 previously undertaken anti-terrorism efforts on behalf of the Iraqi national security
14 forces. *See Matter of Extradition of Ameen*, No. 2:18-mj-152-EFB, 2021 WL 1564520,
15 at *7 (E.D. Cal. Apr. 21, 2021).

16 31. But Mr. Ameen was not present in Iraq when the murder occurred. By then, he had
17 already been living as a refugee in Turkey for two years and was compliant with
18 stringent weekly reporting requirements that all refugees in Turkey must follow per
19 Turkish government rules.

20 32. After the United States Attorney's Office, an agency within DOJ, spent more than two
21 and a half years pursuing extradition proceedings, U.S. Magistrate Judge Edmund F.
22 Brennan of the Eastern District of California declined to certify the extradition request
23 on April 21, 2021. *Id.* at *1.

1 33. In his decision, Judge Brennan excoriated the government's case against Mr. Ameen.

2 First, he found "dubious" the government's argument that Mr. Ameen had traveled to
3 Rawah to commit the murder despite refugee logbooks and cell phone records placing
4 him in Turkey. *Id.* at *9.

5 34. The court also noted that Mr. Ameen had taken and passed a polygraph test, reinforcing
6 that he had "obliterated probable cause." *Id.* at *11.

7 35. Importantly, the court found several of the government's key witnesses to be
8 inconsistent and unreliable. *Id.* at *13–16.

9 36. With respect to the only witness who claimed to have seen Mr. Ameen kill Mr. Jasim,
10 the court found his account of the murder implausible and undercut by the fact that the
11 witness had made several other allegations "that are absurd on their face." *Id.* at *15–
12 16.

13 37. The court similarly rejected the allegations of the other informants. *Id.* at *12–15.

14 38. Judge Brennan not only concluded that the government failed to show probable cause
15 to believe that Mr. Ameen had committed the murder, he also rejected the
16 government's terrorism accusations entirely, finding that "there is no corroborative
17 evidence in the record that Ameen occupied such a high-level leadership role in ISIS."
18 *Id.* at *16.

19 39. The court ordered Mr. Ameen to be released from custody immediately unless the
20 government detained him on terrorism-related criminal charges, noting that it was
21 "regrettable that the case [had] taken more than two years to litigate." *Id.*

III. Mr. Ameen's Removal Proceedings

40. Upon his release from U.S. Marshal custody, Mr. Ameen was taken into ICE custody. On April 21, 2021, the government continued the removal proceedings initiated by the notice to appear issued and filed in 2018.

41. The government charged Mr. Ameen as removable under 8 U.S.C. § 1227(a)(1)(A), which states that “[a]ny [non-citizen] who at the time of entry . . . was within one or more of the classes of aliens inadmissible by the law existing at such time is deportable.”

42. The government alleged that Mr. Ameen was inadmissible at the time of his entry because he had made various material misrepresentations on his refugee application.

43. To support this charge, the government submitted an FBI Letterhead Memorandum (“LHM”), which contains internally inconsistent and often vague statements detailing the terrorism allegations against Mr. Ameen. The government subsequently submitted several supplemental LHMs in an attempt to bolster its case.

44. Through the LHMs, the government made fantastical claims about Mr. Ameen’s involvement in terrorist activities.

45. For example, the government alleged that Mr. Ameen was the founder of Jama’at al-Tawhid wal-Jihad, the precursor organization to Al-Qaeda in Iraq, despite the government’s repeated representations over many years that the organization was actually founded by Abu Musab al-Zarqawi.

46. The government also accused Mr. Ameen of: working for his cousin, Ghassan, in 2007, even though the government’s scant evidence alleges that Ghassan was in custody following his arrest on terrorism charges in 2005; being an ISIS commander in

1 Rawah in 2014 despite living as a refugee in Turkey at that time; and kidnapping
2 several individuals in 2016 when it was undisputed that Mr. Ameen was already in the
3 United States.

4 47. Between July and October 2021, the immigration court conducted six days of hearings
5 on removability.

6 48. During these hearings, the government opposed turning over any of the evidence that
7 served as the source for the LHMs. It refused to acknowledge that the same informants
8 were responsible for the allegations in both the removal and extradition proceedings,
9 despite the obvious similarities of the statements and allegations. It further refused to
10 identify the author of the LHMs.

11 49. The government also failed to produce a single witness with personal knowledge of the
12 terrorism allegations against Mr. Ameen, instead relying almost entirely on the
13 testimony of former FBI Special Agent William Denton. Mr. Denton's testimony often
14 relied on double, triple, and quadruple hearsay.

15 50. Even with the government's stonewalling, Mr. Ameen presented copious evidence to
16 show that the LHMs and the witnesses referenced therein were not credible. Mr. Ameen
17 also submitted rebuttal evidence showing he was not involved with terrorism.

18 51. The immigration judge ultimately found that the government had failed to prove its
19 allegations related to Mr. Ameen's involvement in terrorism by clear and convincing
20 evidence and declined to sustain them.

21 52. However, the immigration judge found that the government had met its burden with
22 respect to several misstatements on Mr. Ameen's refugee application, including

1 statements related to how his father died; his brother Bilal's kidnapping; and his lack of
2 interactions with, and knowledge of, a member or an armed group or militia.

3 53. Because the immigration judge found Mr. Ameen removable, she set new hearing dates
4 in January and February 2022 for the court to consider Mr. Ameen's claims for relief,
5 including asylum, withholding of removal, deferral of removal under the Convention
6 Against Torture, and adjustment of status.

7 54. Mr. Ameen was eligible for these forms of relief because the court did not sustain the
8 government's allegations related to Mr. Ameen's involvement in terrorism.

9 55. On March 23, 2022, the immigration judge found Mr. Ameen removable and ordered
10 him removed from the United States. Mr. Ameen's removal to Iraq was withheld
11 pursuant to the regulations implementing U.S. obligations under Article 3 of the
12 Convention Against Torture. *See* G.A. Res. 39/46 (Dec. 10, 1984); 1465 U.N.T.S. 85,
13 113, 23 I.L.M. 1027, 1028 (1984); Convention Against Torture and Other Cruel,
14 Inhuman or Degrading Treatment or Punishment, S. Treaty Doc. No. 100-20 (1988); 8
15 C.F.R. §§ 1208.16(a), (c)(2).

16 56. Mr. Ameen and DHS cross-appealed the immigration judge's decision to the BIA.

17 **Mr. Ameen's Habeas Petition and Subsequent Settlement with the U.S. Government**

18 57. On January 10, 2022, Mr. Ameen filed in the U.S. District Court for the Northern District
19 of California a petition for writ of habeas corpus. Verified Petition for Writ of Habeas
20 Corpus Pursuant to 28 U.S.C. § 2241, *Ameen v. Jennings*, No. 22-cv-00140-WHO (N.D.
21 Cal. Apr. 19, 2022).

22 58. Mr. Ameen filed this petition because, in his first bond hearing, the immigration judge
23 erroneously placed the burden of proof on him—instead of the government—to prove by

1 clear and convincing evidence that he was neither a flight risk nor a danger to the
2 community. *Ameen v. Jennings*, No. 22-cv-00140-WHO, 2022 WL 1157900, at *6 (N.D.
3 Cal. Apr. 19, 2022).

4 59. On April 19, 2022, the district court granted Mr. Ameen a writ of habeas corpus and
5 ordered that he be afforded a second bond hearing in which DHS bore the burden of
6 demonstrating, by clear and convincing evidence, that he was a danger or a flight risk. *Id.*
7 at *1.

8 60. Over three days in May 2022, the immigration judge conducted a second bond hearing
9 pursuant to the district court's order. *See Ameen v. Jennings*, No. 22-cv-00140-WHO,
10 2022 WL 2905069 (N.D. Cal. July 22, 2022), at *1.

11 61. On May 17, 2022, the immigration judge found that DHS met its burden and established
12 by clear and convincing evidence that Mr. Ameen was a danger to the community and a
13 flight risk. *Id.* Mr. Ameen appealed the immigration judge's decision to the BIA.

14 62. On June 17, 2022, the government filed a notice of appeal to the Court of Appeals for the
15 Ninth Circuit of the district court's April 19, 2022 order. Notice of Appeal, *Ameen v.*
16 *Jennings*, No. 22-cv-00140-WHO (N.D. Cal. Apr. 19, 2022), ECF No. 38. On June 21,
17 2022, Mr. Ameen filed a cross-appeal. Notice of Appeal, *Ameen v. Jennings*, No. 22-cv-
18 00140-WHO (N.D. Cal. Apr. 19, 2022), ECF No. 40.

19 63. On November 3, 2022, the parties commenced mediation with the assistance of the Ninth
20 Circuit Mediator.

21 64. On September 1, 2023, the parties fully resolved the Ninth Circuit appeals, the district
22 court case, Mr. Ameen's pending case pursuant to the Freedom of Information Act in the
23 U.S. District Court for the District of Columbia, any litigation arising out of or in

1 connection with these cases, and any potential prosecution based on currently known
2 conduct regarding Mr. Ameen or his wife. *See* Settlement Agreement Exh. A.

3 65. The government agreed to adjudicate permanent residence applications for Mr. Ameen's
4 wife and their three children with refugee status. *Id.* ICE also agreed not to initiate
5 removal proceedings until 2035 for family members who were denied lawful permanent
6 residence status. *Id.* The Settlement Agreement also contained a provision that the
7 government would not prosecute Mr. Ameen for any misrepresentations made in his
8 refugee or green card applications. *Id.*

9 66. Both parties agreed to withdraw their appeals at the BIA, leaving the immigration judge's
10 decision granting withholding of removal to Iraq in place under the Convention Against
11 Torture. *Id.*

12 67. Finally, Mr. Ameen agreed not to file a petition for writ of habeas corpus or seek a
13 custody redetermination before an immigration judge for a period of 18 months after he
14 filed a written notice of withdrawal of appeal with prejudice of his currently pending BIA
15 appeals of his removal order and the immigration judge's May 2022 bond determination.
16 *Id.*

17 68. On September 1, 2023, the parties filed a joint motion to dismiss the proceedings in the
18 Ninth Circuit. That same day, the Ninth Circuit dismissed the appeal. *Ameen v. Jennings*,
19 Nos. 22-15912, 22-15935, 2023 WL 9054160, at *1 (9th Cir. 2023).

20 69. The parties then filed a joint motion to vacate judgment and enter stipulated dismissal in
21 the district court, which was granted on September 1, 2023. The district court retained
22 jurisdiction to enforce the parties' Settlement Agreement.

1 70. Mr. Ameen filed his notice of withdrawal of appeal with prejudice to the BIA on
2 September 5, 2023, pursuant to the Settlement Agreement.

3 71. 18 months have passed Mr. Ameen filed his notice of withdrawal. During this time,
4 neither Mr. Ameen nor his counsel have received any information suggesting that the
5 government has identified a country that will accept Mr. Ameen.

6 72. Mr. Ameen has not previously sought relief arising out of the same matter from this
7 Court or any other federal court.

8
9 **CLAIMS FOR RELIEF**

10 **Count One: Violation of Fifth Amendment Right to Due Process**

11 73. Mr. Ameen re-alleges and incorporates all paragraphs above as though fully set forth
12 herein.

13 74. The Due Process Clause of the Fifth Amendment forbids the government from depriving
14 any “person” of liberty “without due process of law.” U.S. CONST. amend. V. *Zadvydas*
15 holds that detention longer than 6 months after conclusion of removal proceedings
16 violates the Fifth Amendment. *See Zadvydas*, 533 U.S. at 701.

17 75. Mr. Ameen’s Settlement Agreement with the government gave the United States an
18 additional 12 months to find a suitable relocation country, for a total period of 18 months.
19 *See* Exh. A. This period began on September 5, 2023, when Mr. Ameen filed his notice
20 of withdrawal of appeal to the BIA pursuant to the Settlement Agreement. That 18-month
21 period ended on March 5, 2025.

22 76. Mr. Ameen’s prolonged detention is not likely to end in the foreseeable future. The
23 government has had triple the amount of time to find a suitable country for removal and

1 has failed to do so. Where removal is not reasonably foreseeable, detention cannot be
2 reasonably related to the purpose of effectuating removal and thus violates due process.
3 *See Zadvydas*, 533 U.S. at 699–700.

4 77. For these reasons, Mr. Ameen’s ongoing, prolonged detention violates the Due Process
5 Clause of the Fifth Amendment.

6 **Count Two: Violation of 8 U.S.C. § 1231(a)**

7 78. Mr. Ameen re-alleges and incorporates all paragraphs above as though fully set forth
8 herein.

9 79. 8 U.S.C. § 1231(a) authorizes detention “beyond the removal period” only for the
10 purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at
11 699 (“[O]nce removal is no longer reasonably foreseeable, continued detention is no
12 longer authorized by statute.”). Because Mr. Ameen’s removal is not reasonably
13 foreseeable, his detention does not effectuate the purpose of the statute and is accordingly
14 not authorized by § 1231(a).

15
16
17 **PRAYER FOR RELIEF**

18 Mr. Ameen respectfully asks this Court to do the following:

19 80. Assume jurisdiction over this matter;

20 81. Order him released on conditions of release deemed appropriate and necessary;

21 82. Award attorneys’ fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. §
22 2412; and

23 83. Grant other relief as the Court deems just and proper by law.
24

1

2 Dated: : March 6, 2025

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4 Respectfully submitted,

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6 /s/ Siobhan Waldron

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/s/ A. Nicole Hallett (as authorized on 3/6/2025).

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VERIFICATION

I, Siobhan Waldron, declare under penalty of perjury that, on information and belief, the factual statements in the foregoing Petition for Writ of Habeas Corpus are true and correct.

March 6, 2025 /s/ Siobhan Waldron