

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SAMAN KHAMISI	§	
Petitioner	§	
	§	
v.	§	
	§	
PAM BONDI, in her capacity as	§	
Attorney General of the United States;	§	
KRISTI NOEM, in her capacity as Secretary,	§	
U.S. Department of Homeland Security	§	Case No. _____
TODD LYONS, Acting Director, United	§	
States Immigration and Customs Enforcement;	§	
BRET BRADFORD, in his capacity as Field	§	
Office Director Houston Field Office U.S.	§	
Immigration and Customs Enforcement;	§	
RAYMOND THOMPSON, in his capacity as	§	
Warden of the Joe Corley Processing Center,	§	§
Respondents.	§	
	§	

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

1. Petitioner Saman Khamisi (“Petitioner” or “Mr. Khamisi”), by and through undersigned counsel, petitions this Court for a writ of habeas corpus to remedy his unlawful detention. Mr. Khamisi is an Iranian national. He has been detained by Respondents since March 2024. An Immigration Judge ordered him removed to Iran, and his removal order became administratively final on October 26, 2024. Mr. Khamisi has now been detained more than 180 days post-removal order. His continued detention is unconstitutional because his removal is not likely to occur in the reasonably foreseeable future. On April 16, 2025, the Interest Sections of the Islamic Republic of Iran informed Respondents that the Consular Section was unable to verify Mr. Khamisi’s Iranian citizenship, and, therefore, unable to

provide the travel document necessary to effectuate his removal. Because Mr. Khamisi's removal is not reasonably foreseeable, his continued detention is no longer justified under the Constitution or the Immigration and Nationality Act ("INA").

2. Petitioner asks this Court to find that his prolonged detention is unreasonable and order his immediate release.

CUSTODY

3. Mr. Khamisi is in the physical custody and under direct control of Respondents, specifically U.S. Immigration and Customs Enforcement ("ICE"). Mr. Khamisi is detained at the Joe Corley Processing Center located in Conroe, Texas.

PARTIES

4. Mr. Khamisi is presently detained at the direction of Respondents at the Joe Corley Processing Center located at 500 Hilbig Road, Conroe, Texas 77301.
5. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. She is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review. 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of Texas and is legally responsible for Petitioner's detention. As such, she is the legal custodian¹ of Petitioner.
6. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security ("DHS"). She is responsible for the administration of Immigration and Customs Enforcement ("ICE") and the implementation and enforcement

¹ No binding Supreme Court or Fifth Circuit cases have adopted the immediate custodian rule in the removal context. *Rumsfeld v. Padilla*, 542 U.S. 426 at 435 n. 8 (2004) (expressly "left open the question whether the Attorney General is a proper respondent to a *habeas* petition filed by an [noncitizen] detained pending deportation"). The Petitioner is held at a private prison which contracts with the federal government to house immigration detainees at the direction of Respondent. Therefore, Respondent is a proper party because they oversee government agencies and/or offices under whose authority Petitioner is being detained.

of the Immigration and Nationality Act. 8 U.S.C. § 1103(a). She routinely transacts business in the Southern District of Texas and is legally responsible for Petitioner's detention. As such, she is a legal custodian² of Petitioner.

7. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. As director of ICE, the agency within DHS that detains and removes noncitizens, Respondent Lyons is a legal custodian³ of Petitioner.
8. Respondent Bret Bradford is named in his official capacity as the ICE Field Office Director of the Houston Field Office. He routinely transacts business within the boundaries of the judicial district of the Southern District of Texas. Pursuant to Respondent Bradford's orders, Petitioner remains detained. As such, he is a legal custodian⁴ of Petitioner.
9. Respondent Raymond Thompson is named in his official capacity as the Facility Administrator of the Joe Corley Processing Center where Petitioner is held. In this capacity, he is a legal custodian of Petitioner.

JURISDICTION

10. Petitioner is detained in the custody of Respondents at the Joe Corley Processing Center located at 500 Hilbig Road, Conroe, Texas 77301.
11. This Court has subject matter jurisdiction over this Petition under 28 U.S.C. § 2241 (power to grant habeas corpus) and 28 U.S.C. § 1331 (federal question jurisdiction); the All Writs Act, 28 U.S.C. § 1651; and the Administrative Procedure Act, 5 U.S.C. § 701.
12. Federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. See, e.g. *Zadvydas*

² *ibid.*

³ *ibid.*

⁴ *ibid.*

v. Davis, 533 U.S. 678, 687 (2001) (“We note at the outset that the primary habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases.”).

VENUE

13. Under 28 U.S.C. § 2241(d), venue properly lies in the Southern District of Texas- Houston Division because Petitioner is physically present and in the custody of Respondents within the District.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. Mr. Khamisi has exhausted all his administrative remedies to the extent required by the law.

15. He has fully cooperated with Respondents and has not delayed or obstructed his detention.

16. Mr. Khamisi’s only remedy is by way of this judicial action.

STATEMENT OF FACTS

17. Mr. Khamisi is a citizen of Iran. He was admitted to the United States as a refugee on or about February 22, 2007. Mr. Khamisi has continuously resided in the United States then.

18. On May 2, 2022, Mr. Khamisi was convicted for attempted sexual assault in violation of Texas Penal Code §22.011(a)(1). Mr. Khamisi was sentenced to four years of imprisonment. On May 21, 2024, Mr. Khamisi was transferred to ICE custody.

19. The DHS initiated removal proceedings against Mr. Khamisi. On September 26, 2024, Mr. Khamisi was ordered removed to Iran by an Immigration Judge. Mr. Khamisi did not appeal the decision. As such, the removal order became administratively final on October 26, 2024.

20. Mr. Khamisi has fully cooperated with Respondents’ efforts to obtain his travel documents. Mr. Khamisi’s family communicated with the Iranian Interests Section at the Pakistan

Embassy in January 2025, March 2025, and April 2025 to request a status update on the issuance of a travel document.

21. On April 16, 2025, Mr. Khamisi was interviewed by the Interest Section of the Islamic Republic of Iran in relation to his application for a travel document. He cooperated during the interview and provided the consular official with all the information requested. He informed the consular official that he does not have his original Iranian passport or birth certificate.
22. That same day, the Consulate Section of the Interest Section of the Islamic Republic of Iran notified Respondents that they were unable to verify Mr. Khamisi's Iranian citizenship, and therefore, unable to issue a travel document until they received Mr. Khamisi's original passport and original birth certificate.
23. Mr. Khamisi continues to be detained, despite explicit notification that a travel document cannot be issued. Mr. Khamisi has now been detained for more than 180 days pending his removal. His continued detention is arbitrary and capricious.

LEGAL FRAMEWORK

24. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243 (emphasis added).
25. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government

custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

26. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.
27. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court’s final order”; or “[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.”
28. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.
29. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their

removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen's due process right to liberty. 533 U.S. at 701. In this circumstance, if the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

30. The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

31. The first justification of preventing flight, however, is "by definition . . . weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is "no longer practically attainable, detention no longer 'bears [a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, "preventive detention based on dangerousness" is permitted "only when limited to specially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 690–91.

32. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If removal is reasonably foreseeable, “the habeas court should consider the risk of the [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.
33. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that “Congress previously doubted the constitutionality of detention for more than six months” and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

EQUAL ACCESS TO JUSTICE ACT

34. The Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, permits this Court to award attorney fees and costs to Mr. Khamisi if he prevails because this action is a civil action brought against officials and an agency of the United States.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION

35. Petitioner re-alleges and incorporates by reference the paragraphs above as if fully set forth herein.
36. Petitioner’s detention violates the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. CONST. amend V. “Freedom from imprisonment – from government

custody, detention, or other forms of physical restraint – lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

37. Petitioner’s removal became administratively final on October 26, 2024. The removal period began on that day and thus elapsed on April 24, 2025.

38. Petitioner’s prolonged detention is not likely to end in the reasonably foreseeable future. The Consulate Section of the Interest Section of the Islamic Republic of Iran has explicitly indicated that they are unable to issue a travel document until they confirm Petitioner’s Iran citizenship. They are unable to confirm his Iranian citizenship until they receive his *original* Iranian passport and *original* birth certificate. Petitioner does not possess either of these documents and is unable to obtain them in the reasonably foreseeable future.

39. If Respondents have “no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019); *See also Gonzalez-Rondon v. Gillis*, No. 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (holding that petitioner met his initial burden where he was held in ICE custody for more than one year after the issuance of his removal order with no indication from the Venezuelan officials that travel documents would be issued).

40. Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and thus violates due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

41. For these reasons, Petitioner’s prolonged civil detention, which has lasted beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner’s detention violates Petitioner’s rights to due process.

**COUNT TWO
STATUTORY VIOLATION OF 8 U.S.C. § 1231**

42. Petitioner re-alleges and incorporates by reference the paragraphs above as if fully set forth herein.

43. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention “beyond the removal period” only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 (“[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.”). Because Petitioner’s removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

**ATTORNEY’S FEES PURSUANT TO 28 U.S.C. § 2412, THE EQUAL ACCESS TO
JUSTICE ACT**

44. If Mr. Khamisi prevails, he requests attorney’s fees and costs under the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court

- 1) Assume jurisdiction over this matter;
- 2) Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
- 3) Declare that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a).
- 4) Issue a writ of habeas corpus ordering Respondents to release Petitioner immediately;
- 5) Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- 6) Grant such further relief as the Court deems just and proper.

Dated: April 29, 2025

Respectfully submitted,

By: /s/ Rebecca Chavez

Rebecca Chavez
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Counsel-for Petitioner

Verification of Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I, Rebecca Chavez, and others working under my supervision have discussed with Petitioner the events described in the Petition. I hereby certify that the statements made in this attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Rebecca Chavez
Rebecca Chavez

Date: April 29, 2025