

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

KAREM TADROS,

c/o Murray Osorio PLLC
50 Park Pl,
Newark, NJ 07102

Petitioner,

v.

KRISTI NOEM, *Secretary of Homeland Security,*

Secretary of Homeland Security
Washington, DC 20508

TODD LYONS, *Acting Director, U.S. Immigration
and Customs Enforcement,*

KENNETH GENALO, *Acting Executive Associate
Director, ICE Enforcement and Removal
Operations,*

JOHN TSOUKARIS, *ICE Newark Field Office
Director,*

500 12th St., SW
Washington, D.C. 20536

PAMELA BONDI, *Attorney General,*

950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Respondents.

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

In 2008, Petitioner Karem Tadros won an order from an immigration judge granting him a form of relief called deferral of removal under the Convention Against Torture, which prohibits Respondents from removing him to Egypt. Should Respondents wish to remove Petitioner to

Egypt, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of deferral of removal. Should Respondents wish to remove Petitioner to any other country, they would first need to provide him with notice and the opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. But Respondents have arrested and now appear to be seeking to deport Petitioner without observance of any legal procedures whatsoever, ripping him away from his family. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue lies in this District because Petitioner is currently detained in ICE's Elizabeth Contract Detention Facility in Elizabeth, New Jersey; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Respondent Tsoukaris's principal place of business is in Newark, New Jersey.

THE PARTIES

4. Petitioner Karem Tadros is a citizen and native of Egypt who resides in Belleville, New Jersey. Respondents seek to deport him to Egypt without any legal process whatsoever, and

in violation of an immigration judge order and a federal regulation prohibiting them from doing so.

5. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Kenneth Genalo is the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He is the head of the ICE office that carries out arrests of noncitizens and removals from the United States.

8. Respondent Tsoukaris is the ICE Newark Field Office Director. He is the head of the ICE office that is unlawfully detaining Petitioner, and such arrest took place under his direction and supervision. He is the immediate legal and physical custodian of Petitioner.

9. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

10. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

11. The Convention Against Torture (“CAT”) prohibits the government from removing a noncitizen to a country where he is more likely than not to face torture. 8 C.F.R. § 1208.17(a). This protection is usually referred to as “CAT deferral of removal.” For an immigration judge

(serving as the designee of Respondent Bondi) to grant CAT deferral of removal to a noncitizen, the noncitizen bears the burden of proof that he is more likely than not to suffer torture. *Id.*

12. If a noncitizen is granted deferral of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of [deferral] is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

13. However, deferral of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of deferral of removal to some *other* country, a nationwide preliminary injunction from the District of Massachusetts requires that the government must first provide that individual with notice and an opportunity to apply for protection as to *that* country as well, if appropriate. *D.V.D. v. U.S. Dep’t of Homeland Sec’y*, 2025 WL 1142968 (D. Mass., Apr. 18, 2025).

14. Pursuant to the *D.V.D.* preliminary injunction, Respondents may not remove a noncitizen to any third country without first: (1) providing written notice to the noncitizen and his counsel of the third country to which he may be removed, in a language he can understand; (2) providing meaningful opportunity for the noncitizen to raise a fear of return for eligibility for CAT protections; (3) move to reopen the noncitizen’s prior immigration proceedings if he demonstrates “reasonable fear”; and (4) if the noncitizen is not found to have demonstrated “reasonable fear,” provide meaningful opportunity, and a minimum of 15 days, for him to seek to move to reopen his prior immigration proceedings to challenge the potential third-country removal. *D.V.D.*, 2025 WL 1142968, at *24.

15. Subsequent to a grant of deferral of removal, the government may detain a noncitizen for 90 days while it attempts to make arrangements for third-country removal. 8 U.S.C. § 1231(a)(1)(A). This 90-day period is referred to as the removal period. *Id.* After the removal

period, the noncitizen must be released from detention on an order of supervision, 8 U.S.C. § 1231(a)(3). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3). Detention beyond the removal period is only permissible where there is a significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

16. Finally, federal regulations provide a procedure by which a grant of CAT deferral of removal issued by an immigration judge may be terminated: DHS must file a motion before the immigration judge to schedule a hearing to consider whether deferral of removal should be terminated, 8 C.F.R. § 1208.17(d)(1); and then, at such hearing, the Immigration Judge will decide *de novo* whether deferral of removal continues to be warranted, 8 C.F.R. § 1208.17(d)(3).

FACTS

17. Petitioner Karem Tadros is a citizen of Egypt and no other country.

18. On December 10, 2008, Petitioner was granted CAT deferral of removal, after the immigration judge agreed that he had established it was more likely than not that he would be tortured in Egypt. *See* Ex. A (Immigration Judge order). DHS appealed the grant of relief, and the Board of Immigration Appeals (“BIA”) dismissed the appeal on April 7, 2009, therefore upholding the decision of the immigration judge to grant Petitioner deferral of removal. *See* Ex. B (BIA Appeal Dismissal).

19. To date, Respondents have not taken any steps to reopen or rescind the grant of relief. *See* Ex. C (EOIR Automated Case Information). Nor have Respondents designated any third country for removal pursuant to the *D.V.D.* preliminary injunction.

20. On the morning of May 7, 2025, ICE officers arrested Petitioner at his home without any advance warning, and took him into detention.

21. Prior to his detention, Petitioner was dutifully attending scheduled check-ins with ICE pursuant to his Order of Supervision. He now remains in detention in the Elizabeth Contract Detention Facility as of the time of filing this habeas corpus petition. *See* Ex. D (ICE Detainee Locator screenshot).

22. Before the filing of this habeas corpus petition, Petitioner's counsel communicated with Respondent Tsoukaris via email to inquire as to the factual and legal basis for Petitioner's current detention but received no response. *See* Ex. E (Email to John Tsoukaris).

23. ICE has a recent track record of deporting individuals to countries notwithstanding valid orders of protection as to those countries, in gross violation of the law. *See, e.g., Abrego Garcia v. Noem*, Civ. No. 8:25-cv-951-PX, 2025 WL 1014261 (D. Md., Apr. 6, 2025), *aff'd*, *Noem v. Abrego Garcia*, 145 S. Ct. 1017 (U.S., Apr. 10, 2025). Petitioner is terrified that the same thing will happen to him.

24. In addition, the government recently attempted to carry out a third-country deportation to Libya without the proper notice or opportunity to be heard under the *D.V.D.* preliminary injunction. *See* Priscilla Alvarez and Natasha Bertrand, "Migrants, believed to be destined for Libya, sat on a bus for hours then abruptly returned to detention facility," *CNN* (May 9, 2025), *available at* <https://www.cnn.com/2025/05/09/politics/migrant-flight-libya-last-minute-reprieve> (Ex. F hereto). Since Petitioner has no claim to legal immigration status in Libya, were he sent to that country, Libyan authorities or nongovernmental forces would immediately turn around and remove him back to Egypt, where it has already been determined that he is more likely than not to be tortured. Petitioner is terrified that this will happen to him.

25. Indeed, since there is no third country in which Petitioner has a claim to legal immigration status, there is no third country to which Respondents can remove Petitioner without that third country sooner or later removing him to Egypt.

26. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CAUSE OF ACTION:
HABEAS CORPUS,
28 U.S.C. § 2241**

27. Petitioner incorporates the foregoing paragraphs 1-26 by reference.

28. The writ of habeas corpus is available to any individual who is held in custody of the federal government in violation of the Constitution or laws or treaties of the United States.

29. As set forth herein, Respondents are currently detaining Petitioner in violation of the Constitution or laws or treaties of the United States, and intend to remove Petitioner to Egypt, or to a third country, in violation of the Constitution or laws or treaties of the United States.

**SECOND CAUSE OF ACTION:
VIOLATION OF THE CONVENTION AGAINST TORTURE,
8 C.F.R. § 1208.17(a)**

30. Petitioner incorporates the foregoing paragraphs 1-26 by reference.

31. The Convention Against Torture regulation, 8 C.F.R. § 1208.17(a), prohibits Respondents from removing a noncitizen to any country from which he has been granted CAT deferral of removal, unless such grant is formally terminated by lawful means.

32. As set forth above, Respondents intend to remove Petitioner to Egypt, the country from which he had been granted CAT deferral of removal, without formally terminating his grant of deferral of removal, thus violating this law.

33. In the alternative, as set forth above, Respondents intend to remove Petitioner to a third country which will in turn remove Petitioner back to Egypt, without adequate notice and opportunity to be heard, thus violating this law.

**THIRD CAUSE OF ACTION:
PROCEDURAL DUE PROCESS
U.S. CONSTITUTION, AMENDMENT V**

34. Petitioner incorporates the foregoing paragraphs 1-26 by reference.

35. Petitioner has a procedural due process right not to be removed to Egypt, the country from which he had been granted CAT deferral of removal, without an immigration judge first carrying out the procedures set forth in federal regulations.

36. As set forth above, Respondents intend to remove Petitioner to Egypt, the country from which he had been granted CAT deferral of removal, without formally terminating his grant of deferral of removal, thus violating his procedural due process rights under the Fifth Amendment to the U.S. Constitution.

37. In the alternative, as set forth above, Respondents intend to remove Petitioner to a third country which will in turn remove Petitioner back to Egypt, without adequate notice and opportunity to be heard, thus violating his procedural due process rights under the Fifth Amendment to the U.S. Constitution.

**FOURTH CAUSE OF ACTION:
SUBSTANTIVE DUE PROCESS
U.S. CONSTITUTION, AMENDMENT V**

38. Petitioner incorporates the foregoing paragraphs 1-26 by reference.

39. Petitioner has a substantive due process right under the Fifth Amendment to the U.S. Constitution not to be subjected to government conduct that shocks the conscience. For

Respondents to deport Petitioner to near-certain torture in Egypt, notwithstanding a judge's order that they not do so, as set forth above, would violate that right.

**FIFTH CAUSE OF ACTION:
VIOLATION OF 8 U.S.C. § 1231(a) /
Zadvydas v. Davis, 533 U.S. 678 (2001)**

40. Petitioner incorporates the foregoing paragraphs 1-26 by reference.

41. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a), as interpreted by *Zadvydas*, 533 U.S. at 701. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed, and there is no significant likelihood of removal in the reasonably foreseeable future.

42. Petitioner's continued detention is no longer reasonable, and is therefore no longer permitted under 8 U.S.C. § 1231(a).

REQUEST FOR RELIEF

43. Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;
- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to Egypt, unless and until his order of CAT Deferral of Removal is terminated, including all appeals;
- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for protection from removal as to that country;

- d) Preliminarily enjoining Respondents from removing Petitioner from the State of New Jersey pending the outcome of this litigation;
- e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody; and
- f) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

/s/ Marisol Gonzalez

Date: May 10, 2025

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List of exhibits

- Ex. A) Immigration Judge order
- Ex. B) BIA Appeal Dismissal
- Ex. C) EOIR Automated Case Information
- Ex. D) ICE Detainee Locator screenshot
- Ex. E) Email to John Tsoukaris
- Ex. F) Priscilla Alvarez and Natasha Bertrand, “Migrants, believed to be destined for Libya, sat on a bus for hours then abruptly returned to detention facility,” *CNN* (May 9, 2025).