

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA**

AMR AES DERHEM NAJI

Petitioner,

v.

WARDEN, Folkston Ice Processing Center;
KRISTI NOEM, in her official capacity as
Secretary of the United States Department of
Homeland Security;
PAMELA BONDI, in her official capacity
as Attorney General of the United States.

Respondents.

Civil Action No.:

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

ORAL ARGUMENT REQUESTED

COMES NOW the Petitioner, Amr Aes Derhem Naji, by and through undersigned counsel, and files this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, seeking immediate release from unlawful and prolonged detention by the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and states as follows:

I. INTRODUCTION

1. Petitioner is a national of Yemen, a country suffering from ongoing armed conflict and extraordinary humanitarian conditions, which has been designated for Temporary Protected Status (TPS) under INA § 244 (8 U.S.C. § 1254a) since 2015.
2. Petitioner has filed a *Form I-821*, Application for Temporary Protected Status and a *Form I-765*, Application for Employment Authorization with U.S. Citizenship and Immigration Services ("USCIS").

3. The initial TPS designation for Yemen was announced on September 3, 2015 and the current TPS designation for Yemen will provide protection from removal until March 3, 2026 – approximately a year from the date of this filing.
4. Multiple administrations, including those of the current President, have extended the designation for nearly a decade.
5. Under INA § 244(a)(1)(A), 8 U.S.C. § 1254a, DHS “shall not remove the alien from the United States during the period in which such [TPS] status is in effect.”
6. This statute states that an alien who establishes a prima facie case of eligibility for TPS shall be provided such benefits until a final determination is made. 8 U.S.C. § 1254a(b)(4)(B); *see also* 8 C.F.R. § 244.5(b) (upon filing an application for TPS, if the applicant establishes prima facie eligibility, they shall be afforded temporary treatment benefits, which include a stay of removal, continuing until a final decision is made on the application); *USCIS Adjudicator’s Field Manual*, Ch. 38.1(e)(5).
7. Despite this legal protection from removal, Petitioner remains unlawfully detained by ICE, without any viable prospect of removal to Yemen due to the dangerous, ongoing civil war and lack of a functioning Yemeni government to accept deportees.
8. There is no likelihood of removal of the Petitioner in the foreseeable future due to the legal protections of TPS and the government’s inability to repatriate Yemeni nationals to Yemen, therefore, the Petitioner must be released.
9. The petitioner’s continued detention violates his Fifth Amendment right to due process and is contrary to the humanitarian intent and statutory protections of TPS.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C. § 701.
6. This Court has authority to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, 5 U.S.C. §§ 702 and 706 and Rule 57 of the Federal Rules of Civil Procedure III.
7. This Court has authority to grant injunctive relief in this action pursuant to 5 U.S.C. §§ 702 and 706, and Rule 65 of the Federal Rules of Civil Procedure.
8. Petitioner's current detention as enforced by Respondents constitutes a "severe restraint on Petitioner's individual liberty," such that Petitioner is "in custody in violation, of the laws of the United States." *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241.
9. While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, *see* 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of Immigration and Customs Enforcement's ("ICE") conduct. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-517 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
10. This Court has jurisdiction over all Respondents, each of whom is a proper respondent under 28 U.S.C. § 2243.
11. Pursuant to 28 U.S.C. § 1391(e), venue is proper within this district on the following grounds: this is a civil action in which (1) Respondents are officers of the United States acting in their official capacity or an agency of the United States; (2) Petitioner resides in this judicial district; and (3) a substantial part of the acts or omissions giving rise to the claim occurred in this judicial district.

12. No binding precedent applicable to immigration detainees, nor the habeas statute, indicate that venue is not proper in the Southern District of Georgia. *See* 28 U.S.C. § 2241.

III. EXHAUSTION OF REMEDIES

13. No exhaustion requirement applies to the constitutional claims raised in this Petition, because no administrative agency exists to entertain the Petitioner's constitutional challenges. *See Howell v. INS*, 72 F.3d 288, 291 (2d Cir. 1995); *Arango-Aradondo v. INS*, 13 F.3d 610, 614 (2d Cir. 1994).

IV. PARTIES

14. Petitioner, Amr Aes Derhem Naji ("Petitioner") is a Yemeni national residing in Folkston Detention Center in Georgia.
15. Respondent Warden, Folkston ICE Processing Center, is the warden of the Folkston ICE Processing Center and is the immediate custodian of Petitioner. The Warden is sued in his/her official capacity and has direct legal custody over the Petitioner. The Folkston ICE Processing Center is a federal immigration detention facility under the administration of the U.S. Department of Homeland Security and operated by a private contractor.
16. Respondent Kristi Noem, in her official capacity as Secretary of the United States Department of Homeland Security (DHS), is responsible for the enforcement of the immigration laws of the United States, including the detention of noncitizens.
17. Respondent Pamela Bondi, in her official capacity as Attorney General of the United States Department of Justice (DOJ), is the chief law enforcement officer of the federal government and oversees matters related to immigration courts and legal interpretations of immigration law.

V. FACTUAL BACKGROUND

18. Yemen has been embroiled in a civil war since 2015, leading to widespread violence, famine, and a humanitarian catastrophe. The U.S. State Department has deemed Yemen unsafe for return, and DHS has repeatedly extended TPS for Yemeni nationals due to these extraordinary conditions.
19. The war in Yemen and the collapse of basic infrastructure have made repatriation difficult and dangerous. U.S. authorities have been reluctant to deport people into an active conflict zone.
20. On March 15, 2025, the United States commenced a series of airstrikes in Yemen. These operations were authorized by President Donald Trump and involved extensive aerial bombardments across multiple governorates, including the capital, Sanaa. Additionally, the Hodeida International Airport, situated in the port city of Al Hudaydah, was targeted.
21. One significant target was the Al-Dailami Air Base, located approximately 15 kilometers north of Sana'a. This base shares its runway with Sana'a International Airport and serves as a major military facility for the Houthi forces.
22. There have been no routine repatriation flights directly to Yemen due to safety concerns and the lack of a functioning Yemeni government to accept removals. In some cases, deportations of Yemenis have had to be routed through third countries, or postponed entirely, because of the "*ongoing armed conflict*" and humanitarian disaster.
23. In fact, the current administration has not flown any deportation flights to Yemen and no plans are reasonably foreseeable or feasible.
24. These conditions on the ground have strongly influenced policy: for instance, DHS extended TPS in 2018 after former U.S. ambassadors warned that "*to send a Yemeni back to Yemen at this time...is simply a death sentence.*".

25. Official data show that very few Yemeni nationals have been deported from the U.S. in recent years, generally only a few dozen or fewer per year. For example, U.S. Immigration and Customs Enforcement (ICE) removed 24 Yemeni nationals in Fiscal Year (FY) 2018, 46 in FY 2019, and this dropped to 14 in FY 2020.
26. Removals fell even further during the pandemic and early post-pandemic period – by FY 2021 only around 6 Yemeni nationals were deported, and about 15 in FY 2022 (with a similar single-digit level in FY 2023). These numbers are extremely low compared to deportations of nationals from many other countries, reflecting special circumstances and policies affecting Yemen.
27. TPS protects eligible Yemeni nationals in the U.S. from removal. DHS officials have repeatedly extended TPS for Yemen upon reviewing country conditions, recognizing that “ongoing armed conflict and extraordinary conditions...continue to exist” and that forcing Yemenis to return would pose “a serious threat to their personal safety.”
28. As a result, many Yemenis who might otherwise be subject to deportation can legally remain in the U.S. under TPS.
29. As of mid-2024, about **2,300 Yemeni nationals** were TPS beneficiaries allowed to stay, with an additional ~1,700 newly eligible under a redesignation.
30. Petitioner filed for his *Form I-821*, Application for Temporary Protected Status application on March 12, 2025, and has been scheduled for a biometrics collection.
31. Petitioner has been detained by ICE, with no realistic possibility of removal to Yemen, as repatriation flights to Yemen remain unavailable and the Yemeni government is unable to accept deportees.

32. Given the Petitioner's detention as of the date of designation, the Petitioner clearly establishes a *prima facie* case of eligibility for benefits of TPS.
33. Official ICE data confirms that deportations to Yemen have been minimal — 24 in FY 2018, 46 in FY 2019, 14 in FY 2020, 6 in FY 2021, and approximately 15 in FY 2022. Most, if not all, were repatriated to third countries.
34. This demonstrates the practical impossibility of removal.

VI. LEGAL ARGUMENT

35. The Eleventh Circuit follows *Jennings v. Rodriguez* strictly, meaning mandatory detention under INA § 235(b) is enforced. However, if removal is not realistically possible, release should be granted under due process grounds.
36. DHS can grant parole under INA § 212(d)(5), which is the most practical avenue for release if detention becomes prolonged.
37. INA § 244(a)(1)(A), 8 U.S.C. § 1254a provides that DHS “shall not remove” a TPS holder while TPS remains in effect. DHS's continued detention of the Petitioner violates this statutory mandate.
38. In the case of an alien who establishes a *prima facie* case of eligibility for benefits under paragraph (1), until a final determination with respect to the alien's eligibility for such benefits under paragraph (1) has been made, the alien shall be provided such benefits. 8 U.S.C. § 1254a(b)(4)(B).
39. Upon the *filing* of an application for Temporary Protected Status, the alien shall be afforded temporary treatment benefits, if the application establishes the alien's *prima*

facie eligibility for Temporary Protected Status. Such temporary treatment benefits shall continue until terminated under 8 C.F.R. § 244.13.

40. Under the TPS statute, these two benefits (stay from removal and EAD) are not limited to those granted TPS; they also extend to applicants for TPS whose applications establish *prima facie* eligibility for TPS. 8 U.S.C. § 1254a(b)(4)(B).
41. Moreover, under *Matter of Sosa Ventura*, 25 I&N Dec. 391 (BIA 2010), TPS serves to “temporarily protect [someone] from deportation or removal,” reinforcing that Petitioner’s removal is barred while TPS remains active.
42. Petitioner’s continued detention without a realistic prospect of removal violates his Fifth Amendment right to due process. The Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), held that indefinite detention without a significant likelihood of removal is unconstitutional.
43. The Eleventh Circuit’s application of *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), supports mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b), however, when removal is not reasonably foreseeable — as is the case for Yemen — continued detention violates due process, and habeas corpus relief is appropriate.
44. DHS may grant parole under INA § 212(d)(5), 8 U.S.C. § 1182(d)(5) for “urgent humanitarian reasons” or “significant public benefit.” Given the impossibility of Petitioner’s removal and his lawful TPS status, parole is a legally sound and humane alternative to detention.
45. DHS’s failure to exercise this authority, despite Petitioner’s prolonged detention and TPS protections, constitutes an abuse of discretion.

VII. CAUSES OF ACTION

COUNT ONE: MANDAMUS ACT, 28 U.S.C. § 1361

46. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

47. Under 28 U.S.C. § 1361, “[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.”

48. Plaintiff has fully complied with all statutory and regulatory requirements for obtaining TPS relief, including proper filing of the Form I-821.

COUNT TWO: PETITIONER’S DETENTION VIOLATES DUE PROCESS UNDER THE FIFTH AMENDMENT OF THE U.S CONSTITUTION

49. Plaintiff repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

50. Respondents’ unlawful detention of Petitioner without a judicial custody determination causes Petitioner to suffer significant pain and suffering and substantial prejudice without affording him an opportunity to be heard in violation of the Due Process Clause of the Fifth Amendment.

51. As a proximate result of Respondents’ unconstitutional detention, Petitioner is suffering and will continue to suffer a significant deprivation of their liberty without due process of law as well as physical, emotional, and psychological harm.

52. Petitioner has no adequate or complete remedy at law to address the wrongs described herein. Petitioner's detention violates the Fifth Amendment Due Process Clause of the U.S. Constitution.

53. Accordingly, the injunctive and declaratory relief sought by Petitioner is necessary to prevent continued and future injury.

COUNT THREE: PETITIONER'S DETENTION VIOLATES *ZADVYDAS V. DAVIS*, 533

U.S. 678 (2001)

54. Plaintiff repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

55. Continued detention becomes unconstitutional when it exceeds a "reasonable period" (often cited as six months under *Zadvydas*).

56. After six months, the burden shifts to the government to prove that removal is significantly likely in the **reasonably foreseeable future**. If they can't, continued detention violates constitutional limits.

57. INA's purpose behind mandatory detention is to facilitate removal. When removal is no longer feasible, detention becomes **punitive**, not administrative — conflicting with *Jennings v. Rodriguez* and constitutional principles.

PRAYER FOR RELIEF

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

A. Issue a writ of habeas corpus commanding Respondent, his or her agents, employees, and all persons acting under their direction or control, to immediately release Petitioner from the custody of U.S. Immigration and Customs Enforcement (ICE);

B. Enter a declaratory judgment finding that Petitioner's continued detention is unlawful, unconstitutional, and contrary to the Immigration and Nationality Act (INA) § 244(a)(1)(A), the Due Process Clause of the Fifth Amendment to the United States Constitution, and controlling judicial precedent;

C. Award such other and further relief as this Court may deem just, equitable, and appropriate, including but not limited to attorneys' fees, costs, and any other relief necessary to protect Petitioner's constitutional and statutory rights.

Dated: March 27, 2025

Respectfully Submitted,

/s/ Joanna Delfunt

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Certificate of Service

I hereby certify that on March 27, 2025, service of the foregoing was mailed via certified USPS on:

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