

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Nadeem KHALID,

Case No. 25-2183

Petitioner,

v.

Pam BONDI, Attorney General of the United
States,

Kristi NOEM, Secretary of the Department of
Homeland Security,

Todd LYONS, Director of Immigration and
Customs Enforcement

Kenneth GENALO, Acting Executive Associate
Director, Enforcement and Removal Operations,

Joel BROTT, Sheriff of Sherburne County,

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

28 U.S.C. § 2241

1. Petitioner, by and through undersigned counsel, respectfully petitions this Honorable Court for a writ of habeas corpus under 28 U.S.C. Section 2241 to remedy his unlawful detention by Respondents.

INTRODUCTION

2. Immigration and Customs Enforcement (“ICE”) of the Department of Homeland Security (“DHS”) has detained Petitioner for more than ten months, since July 8, 2024, pursuant to a final order of removal. Petitioner's prolonged detention is in violation of his constitutional rights, as he has been detained post-final order for over ten months, and his removal is not reasonably foreseeable. Petitioner is detained at the Sherburne County Jail in Elk River, Minnesota. ICE has contracted with the facility to house detainees such as Petitioner. Petitioner is under the control of the Respondents and their agents.
3. Petitioner contends that his prolonged and indefinite detention violates his right to due process under the Fifth Amendment of the Constitution of the United States. Indefinite detention is not authorized where his removal is not reasonably foreseeable. *See Zadvydas v. Davis*, 533 U.S. 678, 690-91 (2001) and its progeny. Petitioner thus requests that this Court issue a writ of habeas corpus and order his immediate release under reasonable conditions of supervision, or, in the alternative, order a constitutionally adequate hearing where Respondents must prove that his continued detention is justified.

JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101. This Court has jurisdiction under 28 U.S.C. § 2241, art. I § 9, cl. 2 of the United States Constitution (“Suspension Clause”), and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

5. This Court has jurisdiction over Petitioner's post-removal period detention. *Zadvydas v. Davis* 533 U.S. 678 (2001).
6. Petitioner is being held in ICE custody after a final removal order has been issued. Exhaustion is not required where continued detention violates established constitutional rights. Petitioner has been issued a final removal order and has complied with all requests from ICE to assist in his removal. There are no additional legal remedies available to Petitioner at this time. Because he is detained under 8 U.S.C. § 1231(a)(6) and not pursuant to § 1226(a), he is not eligible for a bond hearing before the immigration court.

VENUE

7. Venue in the District of Minnesota is appropriate under 28 U.S.C. § 1391(e)(1) and (2) and 28 USC § 2241(a) because Respondents are detaining Petitioner in Minnesota.

PARTIES

8. Petitioner is a native of Pakistan and entered the U.S. in 1989. He is currently in Sherburne County Jail in Elk River, Minnesota, and has been in custody of ICE since July 8, 2024 pursuant to an administratively final order of removal.
9. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for implementing and enforcing the INA. Respondent has legal custody of Petitioner. Attorney General Bondi's address is U.S. Department of Justice, 950 Pennsylvania Ave. NW, Washington, D.C. 20530.
10. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for implementing and enforcing the Immigration and Nationality Act (INA) and oversees U.S. Immigration and Customs Enforcement (ICE). Mrs. Noem has ultimate custodial authority over

Petitioner. Secretary Noem's address is U.S. Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, DC 20528.

11. Respondent Todd Lyons is named in his official capacity as the Director of Immigration and Customs Enforcement within the Department of Homeland Security, located in Washington, D.C. In that capacity, Director Lyons has supervisory capacity over ICE personnel in Minnesota and is the head of the agency that retains the legal custody of Petitioner. The address for ICE Headquarters is 500 12th St. SW, Washington, D.C. 20536.
12. Respondent Kenneth Genalo is named in his official capacity as the Acting Executive Associate Director of Enforcement and Removal Operations within the United States Department of Homeland Security ("DHS"). Enforcement and Removal Operations have jurisdiction over Minnesota. In that capacity, Acting Executive Associate Director Genalo has supervisory authority over the ICE agents responsible for making the custody decision regarding Petitioner. Mr. Genalo is a legal and physical custodian of Petitioner. The address for Enforcement and Removal Operations in Minnesota is 1 Federal Drive, Suite 1601, Fort Snelling, MN 55111.
13. Respondent Joel Brott is named in his official capacity as the Sheriff of Sherburne County, Minnesota. In that capacity, Sheriff Brott is in charge of the Sherburne County Jail, a detention facility under contract with ICE, and the physical location where Petitioner is being held in custody. Sheriff Brott is a legal and immediate physical custodian of Petitioner. The address for the Sherburne County Jail is 13880 Business Ctr Dr NW, Elk River, MN 55330.

STATEMENT OF THE FACTS

14. Petitioner is a native of Pakistan who was inspected and admitted into the U.S. in 1989 under a B-2 visa and overstayed. *Exhibit A*. Petitioner filed for asylum in August 1992 under the alias Khalid Nadeem Bhatti, which was denied in June 1993 by the Asylum Office. *Id.* The government initiated deportation proceedings in September 1993. *Id.* An immigration judge ordered Petitioner deported *in absentia* on September 18, 1995. *Id.* Petitioner married a U.S. citizen in 1998, adjusted status under his own name, and became a permanent resident in March 1999. *Id.*
15. In May 2011, Petitioner was arrested for drug possession and the Department of Homeland Security initiated removal proceedings. *Id.* Petitioner was arrested in February 2013 for financial card fraud and pleaded guilty to a gross misdemeanor charge. *Id.* Petitioner's removal proceedings that began in 2011 were terminated in September 2013. *Id.*
16. On October 2, 2014, Petitioner was served with a new NTA initiating removal proceedings for a third time, issued for allegations of fraud and misrepresentation related to his earlier asylum application. *Id.* He was ordered removed *in absentia* to Pakistan on May 24, 2022. *Id.* He filed a Motion to Reopen and Rescind the *In Absentia* Removal Order, which was denied on January 12, 2023. *Exhibit B*. Petitioner has a pending U visa application with USCIS based on being a victim of a drive-by shooting and assisting the police in the investigation. *Exhibit C*. Petitioner was charged in Sherburne County, Minnesota, with three offenses related to incidents occurring between September 22 and October 3, 2023. *Exhibit D*. Petitioner was convicted of stalking and domestic abuse for violating a protection order. *Id.* Petitioner was sentenced to 18 months of stayed prison time, 255 days local confinement (already served), and supervised probation, along with

various conditions, including domestic abuse counseling, mental health evaluation, and no contact with the victim. *Id.* This conviction is on appeal at the Minnesota Court of Appeals. *Exhibit E.* After completing his sentence, he was released from state custody and was subsequently detained by ICE on July 8, 2024 pursuant to his administratively final order of removal.

17. On July 8, 2024, Petitioner was taken into ICE custody and transferred to Kandiyohi County Jail. *Exhibit F.* Upon arrival, Petitioner reported a potential altercation in his quarters, and the following day, correctional officers moved him to a solitary dry cell, allegedly for his safety. *Id.* Petitioner's cell lacked a bed, toilet, and running water, leaving him confined for most of the day with limited access to necessities. *Id.* Given his medical conditions, including a triple bypass surgery at the end of 2023 and diabetes, Petitioner feared for his health. *Id.* After two days, he requested a transfer and was moved to Freeborn Adult Detention Center ("Freeborn") on July 18, 2024. *Id.*
18. In Freeborn County Jail, Petitioner complied fully with ICE's efforts to obtain travel documentation for his removal, including applying for a new passport through the Embassy of Pakistan in Washington, D.C. *Id.* and *Exhibit G.* On September 30, 2024, an ICE Deputy Field Office Director issued Petitioner a Decision to Continue Detention. *Exhibit H.* An ICE Unit Chief issued a second Decision to Continue Detention on January 23, 2025. *Exhibit I.* At that time, ICE had still not obtained travel documents for Petitioner's removal, despite his cooperation and efforts to assist, including compliance with the Warning for Failure to Depart issued on July 16, 2024. *Exhibit F* and *Exhibit J.*
19. On February 13, 2025, ICE transferred Petitioner from Freeborn to the Alexandria Staging Facility in Alexandria, Louisiana. *Id.* Although the facility serves multiple

- purposes, it is primarily used for deporting detainees to their countries of origin. *Exhibit K*. On February 19, 2025, while at the Alexandria Staging Facility, Petitioner spoke with the Pakistan consulate in an attempt to obtain travel documents, but ICE was unsuccessful in obtaining them. *Exhibit F*. That same day, Petitioner was transferred to the Prairieland Detention Facility in Alvarado, Texas. On March 19, 2025, ICE moved Petitioner back to the Alexandria Staging Facility and then back to Freeborn on March 25, 2025, following his request to be transferred due to the deplorable living conditions at Prairieland and his health conditions. *Exhibit L*.
20. On May 7, 2025, airstrikes were carried out by the Indian Air Force that hit nine locations within Pakistan and Pakistan-occupied Kashmir. *Exhibit M*. On or around May 7, 2025, ICE agents moved Petitioner from Freeborn and placed Petitioner on a flight to Pakistan. *Exhibit L*. The flight was stopped in Abu Dhabi and was turned around due to the conflict between Pakistan and India, and Petitioner was moved to the Sherburne County Jail. *Id*.
21. Petitioner's heart condition, coupled with the living conditions in detention, has hindered his post-surgical recovery and resulted in a worsening of his health. *Exhibit F, Exhibit N, and Exhibit O*. While detained at the Prairieland Detention Center, Petitioner became aware of the deteriorating state of his condition only after being transferred to an outside hospital due to severe symptoms. *Exhibit F*. The attending physician confirmed that his decline was caused by the detention center's living conditions, particularly being forced to sleep on a cement floor with only a mat for support. *Id*. Petitioner is not receiving adequate treatment for his condition while in custody.
22. Despite Petitioner's cooperation and ICE's continual claims in its Detention Continuation Decisions that removal is reasonably foreseeable, ICE has failed to finalize Petitioner's

deportation for more than ten months. ICE attempted to deport Petitioner to Pakistan, but the flight was redirected back to the U.S. due to Indian airstrikes affecting Pakistan. Based on information and belief, travel documents are sometimes issued by foreign countries only for a short time.

23. There is an ongoing conflict between Pakistan and India.
24. The Department of Homeland Security has labeled Pakistan as one of 15 countries that are uncooperative in accepting deportees from the United States, as Pakistan continues to delay or deny the issuance of travel documents necessary for repatriation, making removals difficult or impossible in many cases. See Aline Barros, *US Deportations to China Continue Amid Shifts in Immigration Crackdown*, VOA News (Jan. 31, 2025) (available at: <https://www.voanews.com/a/us-deportations-to-china-continue-amid-shifts-in-immigration-crackdown/7464797.html>). In light of diplomatic relations as of May 12, 2025, the U.S. Embassy and Consulates in Pakistan are issuing Security Alerts with a standing "Do Not Travel" advisory for all travel near the India-Pakistan border due to the potential for armed conflict. The U.S. Department of State also upholds its long-standing "Reconsider Travel" advisory for Pakistan. *U.S. Embassy & Consulates in Pakistan, Security Alert: U.S. Mission to Pakistan* (May 12, 2025), <https://pk.usembassy.gov/security-alert-u-s-mission-to-pakistan-may-12-2025>.
25. On information and belief Respondents do not have the travel documents, plans, or ability to remove Petitioner from the United States in the foreseeable future.

LEGAL ARGUMENT

26. Petitioner's prolonged detention violates the Fifth Amendment's guarantee that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law."

27. The Fifth Amendment prohibits the United States from depriving any person of their liberty without due process of law. U.S. Const. amend. V. Those detained pending a final removal order, pursuant to 8 U.S.C. § 1231, retain their liberty interests such that prolonged or indefinite detention presents significant due process concerns. *Zadvydas*, 533 U.S. at 699.
28. Congress has established a statutory framework which provides that individuals ordered removed may be detained during a 90-day removal period, from the date the removal order becomes administratively final. 8 U.S.C. § 1231(a)(1). A person with a final order of removal who is not removed within the removal period “shall be subject to supervision,” and may be required to periodically appear before an immigration officer, obey reasonable written restrictions, and provide information or submit to medical evaluations if necessary. *Id.* § 1231(a)(3). A person may be detained beyond the removal period if they are determined to be “a risk to the community or unlikely to comply with the order of removal.” *Id.* § 1231(a)(6).
29. The Supreme Court explained in *Zadvydas* that immigration detention pursuant to 8 U.S.C. § 1231 exceeding six months raises significant constitutional concerns. 533 U.S. at 701. Although due process does not dictate release of every person detained for longer than six months, “as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.* Under the *Zadvydas* framework, the detained person has the initial burden to provide “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” after which the burden shifts to the Government to respond with evidence sufficient to rebut the Petitioner's showing. *Id.*

30. In a relevant unpublished decision, the US District Court for the District of Minnesota analyzed whether a petitioner's removal was reasonably foreseeable when there was an armed conflict in the proposed country of removal, as there is in the present case. *Hussein S.M. v. Garland*, No. 21-CV-348 (JRT/TNL), 2021 WL 1986125 (D. Minn. May 18, 2021).
31. The *Hussein S.M.* court found that although the United States had represented to the Court that travel documents had been issued and plans were underway for the petitioner's removal, the government also acknowledged that the escalation of civil conflict introduced additional uncertainties and therefore found that political conditions suggested that removal was not reasonably foreseeable and that the United States had not rebutted the presumption. *Id.* at 3, citing *Ahmed v. Brott*, No. 14-5000, 2015 WL 1542131, at *4 (D. Minn. Mar. 17, 2014), *report and recommendation adopted*, 2015 WL 1542155 (D. Minn. Apr. 7, 2015) (noting that political conditions in the country of origin are one of five types of cases where there is no significant likelihood of removal); *Jama v. ICE*, No. 01-1172, 2005 WL 1205160, at *4 (D. Minn. May 20, 2005) (ordering detainee's supervised release because conditions in the country of removal rendered removal unsafe or impossible).
32. The *Hussein SM* court also wrote: "the Court is not satisfied that ICE's regular review of post-final order detainees' cases after the expiration of the 90-day removal period sufficiently addresses the due process concerns arising from Petitioner's prolonged detention." *Id.* at 4 citing *Zadvydas*, 533 U.S. at 690–92, 699. *See also Bah v. Cangemi*, 489 F. Supp. 2d 905 (D. Minn. 2007); *Moallin v. Cangemi*, 427 F. Supp. 2d 908 (D. Minn. 2006).

33. Petitioner is entitled to relief under *Zadvydas v. Davis*, 533 U.S. 678, 701 (20 01), because there is sufficient evidence to establish “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” Petitioner has been in ICE custody since on or around July 8, 2024. The 90-day removal period under 8 U.S.C. § 1231(a)(1)(A) began on that date. Petitioner has fully cooperated with ICE’s efforts to facilitate his removal. ICE issued two Decisions to Continue Detention, one on September 30, 2024, and another on January 23, 2025, the latter coming more than 180 days after Petitioner was initially detained. Although ICE asserted that removal was reasonably foreseeable, it has not been able to complete the deportation of Petitioner. ICE attempted to remove Petitioner to Pakistan, but the flight was halted in Abu Dhabi due to escalating conflict between Pakistan and India, making removal impracticable. Petitioner was returned to the United States and transferred to the Sherburne County Jail. Given the ongoing conflict and the fact that ICE already tried but was unsuccessful in removing Petitioner, his removal is not reasonably foreseeable. This is particularly true in light of the fact that ICE may not have a current travel document to even attempt removal because travel documents are often issued for only a short time. Further, ICE’s repeated transfers of Petitioner between detention facilities have disrupted his medical care and contributed to a deterioration in his health.
34. As in *Hussein S.M. v. Garland*, No. 21-CV-348 (JRT/TNL), 2021 WL 1986125 (D. Minn. May 18, 2021), the conflict in Petitioner’s country makes his removal unlikely to occur in the reasonably foreseeable future and he should be released. Pakistan's continued lack of cooperation and ICE’s failure to remove Petitioner after more than ten months warrants his release under *Zadvydas*.

35. The Department of Homeland Security has also labeled Pakistan as one of 15 countries that are uncooperative in accepting deportees from the United States, as Pakistan continues to delay or deny the issuance of travel documents necessary for repatriation, making removals difficult or impossible in many cases. See Aline Barros, *US Deportations to China Continue Amid Shifts in Immigration Crackdown*, VOA News (Jan. 31, 2025) (available at: <https://www.voanews.com/a/us-deportations-to-china-continue-amid-shifts-in-immigration-crackdown/7464797.html>). In light of diplomatic relations as of May 12, 2025, the U.S. Embassy and Consulates in Pakistan are issuing Security Alerts with a standing “Do Not Travel” advisory for all travel near the India-Pakistan border due to the potential for armed conflict. The U.S. Department of State also upholds its long-standing “Reconsider Travel” advisory for Pakistan. *U.S. Embassy & Consulates in Pakistan, Security Alert: U.S. Mission to Pakistan* (May 12, 2025), <https://pk.usembassy.gov/security-alert-u-s-mission-to-pakistan-may-12-2025>. Given these facts and ICE’s inability to complete the deportation of Petitioner after more than ten months, Petitioner’s removal is not reasonably foreseeable. Accordingly, under *Zadvydas* and its progeny, Petitioner's continued detention violates his constitutional right to due process.
36. ICE has been unsuccessful in completing the removal of Petitioner, and Petitioner is therefore requesting that he be released. If released on an Order of Supervision, ICE would still be able to monitor Petitioner's whereabouts and could require him to check in periodically. Given the technology and monitoring options available to ICE if Petitioner is released, there is no reason for ICE to continue his detention.

37. Petitioner also calls the Court's attention to *D.V.D. v. U.S. Dep't of Homeland Sec.*, where the District of Massachusetts enjoined DHS from removing individuals to a third country; a country not designated during removal proceedings, without first providing written notice and a meaningful opportunity to apply for protection under 8 U.S.C. § 1231(b)(3) and the Convention Against Torture. Order Granting Temporary Restraining Order at 1–2, No. 25-10676-BEM (D. Mass. Mar. 28, 2025). In that case, the court reaffirmed that DHS's failure to provide notice and an opportunity to assert fear-based claims before attempting removal to an undesignated third country violates statutory and constitutional protections. Complaint ¶¶ 1–6, No. 25-10676-BEM (D. Mass. Mar. 23, 2025). As Petitioner has never resided in any country other than Pakistan, any attempt to remove him to a third country would similarly violate his right to due process.
38. Furthermore, Petitioner's due process rights are being violated because he is unable to receive adequate medical treatment as a result of his prolonged and unconstitutional detention. Under the Eighth Amendment, correctional officials violate the Constitution when they exhibit deliberate indifference to a prisoner's serious medical needs, such as intentionally denying necessary care, unreasonably delaying access to treatment, or knowingly interfering with a prescribed medical plan. *Estelle v. Gamble*, 429 U.S. 97, 104–105 (1976). Petitioner has had to make more frequent visits to medical staff at each detention center due to prolonged exposure to deplorable conditions, which have resulted in significant health deterioration. This had reached a point where he required specialized care from doctors outside of the detention center in Prairieland Detention Center, Alvarado, Texas. *Exhibit O*. Recent evaluations indicate that his heart was failing, a condition exacerbated by having to sleep on the floor due to the insufficient number of

beds in the Prairieland Detention Center. *Exhibit F*. If Petitioner were released from custody, he could seek his own medical treatment at an adequate facility that can handle his medical needs.

CLAIMS FOR RELIEF

I. STATUTORY VIOLATION

1. Petitioner re-alleges and incorporates by reference paragraphs 1 through 33 above.
2. Respondents' continued detention of Petitioner is unlawful and disregards 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas, and Clark v. Martinez*, 543 U.S. 371 (2005), and 8 U.S.C. §1231(a) Petitioner has not been removed and remains in detention. He has been detained for over ten months, far more than the presumptively reasonable period of six months. Petitioner's removal to Pakistan or any other country is not significantly likely to occur in the reasonably foreseeable future. Accordingly, Respondents' continued detention of Petitioner is contrary to statute.

II. DUE PROCESS VIOLATION

1. Petitioner re-alleges and incorporates by reference paragraphs 1 through 33 above.
2. Petitioner's continued detention violates Petitioner's right to due process through a deprivation of the core liberty interest in freedom from bodily restraint.
3. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty interest be narrowly tailored to serve a compelling government interest. Any interest Respondents have in detaining Petitioner in order to effectuate removal does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future.

4. For all of the foregoing reasons, Petitioner's continued detention is in violation of his due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
- 3) Pursuant to 28 U.S.C. § 2243 issue an order directing Respondents to show cause why the writ of habeas corpus should not be granted;
- 4) Grant Petitioner a writ of habeas corpus directing the Respondents to release Petitioner from their custody immediately;
- 5) Enjoin Respondents from transferring Petitioner outside of this judicial district pending litigation of this matter or his removal proceedings; and
- 6) Grant any other and further relief as the Court deems just and proper.

Dated: May 21, 2025

Respectfully submitted,
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