

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Nadeem KHALID,

Case No.: 25-CV-02183-NEB-DLM

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; and Joel Brott, Sheriff of Sherburne County

**PETITIONER'S SUPPLEMENTAL
BRIEF IN SUPPORT OF PETITION FOR
WRIT OF HABEAS CORPUS**

Respondents.

Petitioner, Nadeem Khalid, has been detained by United States Immigration and Customs Enforcement (ICE) for 465 days—more than 15 months—pending his removal to Pakistan after entry of a final order of removal. He seeks a writ of habeas corpus because his prolonged and indefinite detention violates his right to due process under the Fifth Amendment to the United States Constitution. Petitioner submits this brief to address issues raised at the October 9, 2025 show cause hearing. In light of his ongoing detention, Petitioner appreciates this Court's prompt attention to this matter. He respectfully requests that this Court issue its report and recommendation at this time, rather than take the matter under advisement until late October, as Respondents' assertion that Petitioner will be removed before late October should not be taken at face value in light of the past 15 months of similar statements that have not resulted in his removal.

As Petitioner argued at the show cause hearing, he has met his initial burden under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). As *Zadvydas* requires, he has shown that more than

six months have passed since his detention began, which occurred after the date that his removal order became administratively final, and he has demonstrated that there exists “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” 533 U.S. at 701. Specifically, Petitioner has satisfied his burden to show there is not a significant likelihood that he will be removed in the foreseeable future because he has shown that the government’s timeline for his removal remains uncertain for at least two reasons: first, Petitioner’s medical conditions make it significantly less likely that he will be removed in the foreseeable future, and second, the government’s pattern of past failures in its efforts to remove Petitioner underscore how unlikely his removal in the foreseeable future remains. Because Petitioner has satisfied his initial burden, the government now bears the burden to provide evidence sufficient to rebut Petitioner’s showing that there is not a significant likelihood of his removal to Pakistan in the reasonably foreseeable future. *See id.* The government has failed to meet its burden. Accordingly, this Court must grant the petition for a writ of habeas corpus.

First, Petitioner’s ongoing medical conditions lower the likelihood that the government will be able to remove him in the foreseeable future and his ongoing detention only further aggravates those conditions. The government asserts that Petitioner’s medical condition is currently stable. Dkt. No. 30 at 5. But this assertion belies the significant medical complications that Petitioner has experienced throughout his prolonged detention, including the fact that as recently as October 4, 2025 he reported to the hospital with chest pain. While in ICE custody, Petitioner has twice been hospitalized due to his medical conditions, as demonstrated by medical records filed with his habeas petition. It is indisputable that Petitioner has suffered recurring issues related to his medical conditions and that the conditions of his present detention further aggravate those conditions, which in turn lessens the likelihood that he will be physically capable of

international travel on the yet-to-be-ascertained date of his removal. For example, as Petitioner attests in his sworn declaration, Sherburne County Jail has failed to provide him with food appropriate for his medical condition as a diabetic. Dkt. No. 20, ¶ 2. Petitioner's medical conditions thus lower the likelihood that Petitioner's removal is likely to occur within the foreseeable future when the very conditions of his prolonged detention contribute to his medical concerns, which are almost certain to be further aggravated by the stress of international travel and the circumstances of removal.

Further, while Respondents acknowledge that "case law varies" on the question of what impact a petitioner's medical condition might have on the likelihood-of-removal analysis, Dkt. 30 at 5, their citation of *Hernandez-Mendoza v. Garland* is inapposite. No. C21-1419-RSL-MLP, 2022 WL 18878031, at *3, *7 (W.D. Wash. Apr. 19, 2022). *Hernandez-Mendoza* addresses a habeas petition in the context of a petitioner who asserted a heightened risk of harm from contracting COVID-19 where a petitioner had twice refused vaccination and where his medical conditions were a slow heartrate and a BMI that barely placed the petitioner in the overweight range. *Id.* at *3. Here, Petitioner asserts that his specific medical conditions, heart issues and diabetes, impair his ability to board an international flight under the high-stress circumstances of removal, which is of direct consequence to the likelihood of his removal in the foreseeable future. Further, Petitioner's medical conditions have resulted in his hospitalization on at least two occasions since his detention began, which was not the case for the petitioner in *Hernandez-Mendoza*. Petitioner's case is distinct from *Hernandez-Mendoza*, and while COVID-19-related cases are not perfectly analogous to his situation, other cases involving medical conditions are more on point. *See, e.g., Hango v. Adducci*, No. 1:19cv00606, 2020 WL 3271602, at *3-5 (N.D. Ohio May 21, 2020)

(determining habeas petitioner faced heightened risk of harm from COVID outbreaks during lengthy confinement due to petitioner's medical conditions of hypertension and stroke).

Second, while Respondents have made attempts and efforts to remove Petitioner, including recently obtaining a travel document after a lengthy delay, the period of time over which removal efforts have been unsuccessful and the number of failed attempts further lessen the likelihood that Petitioner's removal to Pakistan will occur in the foreseeable future. ICE most recently attempted to place Petitioner on a plane in Arizona on September 2, 2025, where he and 34 other people were deplaned due to overbooking. Dkt. 23 ¶ 4. *Contra* Dkt. 22 ¶ 4-5.¹ Following that failed attempt at removal, Petitioner was brought to Minnesota where he was confined at Sherburne County, where the conditions of his detention continue to exacerbate his medical conditions, as addressed above. Other failed recent efforts occurred on August 5, 2025, and on June 23, 2025.² In light of these continued failed efforts and the lengthening period of Petitioner's post-removal-order confinement, it is critical to bear in mind that the period of time that can be considered the "reasonably foreseeable future" continues to shrink. *See Zadvydas*, 533 U.S. at 701.

Finally, if this Court determines that Petitioner contributed to any delay in his removal by being noncooperative with efforts to remove him on June 23, 2025, this Court should apply the unencumbered-time approach to calculate his period of detention and, in doing so, should come to

¹ Deportation Officer Seth T. Patrin provides an inaccurate summary of this removal attempt, stating that Petitioner "was not taken from the staging facility to the flightline" on September 2. Dkt. 22 ¶ 5. Petitioner clarifies the events of that day in his own declaration. Dkt. 23 ¶ 4.

² To the extent the government argues that Petitioner was uncooperative with its efforts to remove Petitioner on June 23, 2025, Petitioner maintains that this is inaccurate. He did not "conspire[] or act[] to prevent [his] removal" on that date and so further extending the duration of his detention remains unjustified. *See Moses v. Lynch*, No. 15-CV-4168 (PAM/JJK), 2016 WL 2636352 (D. Minn. Apr. 12, 2016). Below, Petitioner addresses the effect any possible determination that he conspired or acted to prevent his removal should have on calculating his period of detention for purposes of *Zadvydas*'s burden-shifting framework.

the same conclusion that he has satisfied his burden under *Zadvydas*. Cf. *Bah v. Cangemi*, 489 F. Supp. 2d 905, 921-22 (D. Minn. 2007) (applying unencumbered-time approach in habeas context where circuit court had granted petition for review). Critically, even if Petitioner is determined to have acted to prevent his removal, due process demands that he not be held indefinitely. In *Bah v. Cangemi*, this Court rejected the retrospective-recharacterization approach when determining the length of a habeas petitioner's removal period under the circumstances of Bah's petition for review to the Eighth Circuit being granted. *Id.* While Petitioner's circumstances here are distinct from those in *Bah*, the unencumbered-time approach also appropriately applies to his case. Just as any period elapsing during a stay of removal while a pending petition for review is resolved requires a pause in the time for purposes of *Zadvydas* for the duration of the stay, any delay caused by Petitioner would not require the clock to be reset entirely but would instead require, at most, a pause for the length of time until the government's next effort to remove Petitioner, which occurred on August 5, 2025, and which was, as addressed above, unsuccessful for reasons well outside of Petitioner's control.

In light of the foregoing, Petitioner respectfully requests that his petition be granted because he has met his burden to establish that there is not a significant likelihood of removal in the reasonably foreseeable future and because the government has failed to meet its burden to prove otherwise.

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Respectfully submitted,
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