



UNITED STATES DISTRICT COURT
FOR THE
DISTRICT COURT OF MINNESOTA

600 U.S. Courthouse Suite 202
300 South Fourth Street
Minneapolis, MN, 55415

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JUN 18 2025

CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

KALALIZI MADOGO



Petitioner,

v.

Merrick B. Garland,
US ATTORNEY GENERAL;
Alejandro Mayorkas,
SECRETARY OF DEPARTMENT OF
HOMELAND SECURITY;
Kevin Raycraft,
FIELD OFFICE DIRECTOR FOR THE
MINNEAPOLIS FIELD OFFICE

Respondents,

RECEIVED BY MAIL

JUN 18 2025

CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

SCANNED
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U.S. DISTRICT COURT MPLS

PETITION FOR A WRIT OF HABEAS CORPUS
PERUANT TO 28 U.S.C. § 2241

Petitioner, MADOGO KALALIZI, brings this habeas petition seeking relief pursuant to 28 U.S.C. § 2241 on the ground that his continued detention in post-removal-order custody is unlawful since it has exceeded the presumptively reasonable six-month period established under the due process standards set forth by the United States Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) and that his removal to Democratic Republic of the Congo is unlikely to occur in the reasonably foreseeable future.

REC'D / U.S. ATTORNEY'S
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CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (“ICE”). Petitioner is detained at the Freeborn County Adult Detention Center in Albert Lea, Minnesota. ICE has contracted with Freeborn County Jail to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents. Petitioner was transfer to ICE custody on July 18, 2024.

Petitioner was transferred to Freeborn County Adult Detention Center in Albert Lea, Minnesota on July 18, 2024.

JURISDICTION

2. This action arises under the constitution of the United States, and the Immigration and Nationality Act (“INA”), 8 U.S.C. 1101 et seq. as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. 701 et seq.

3. 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, law, or treaties of the United State. 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.

4. Petitioner has exhausted any and all administrative remedies to the extend require by law.

VENUE

5. Pursuant to Braden v. 30th Judicial Circuit Ct., 410 U.S. 484, 495-96, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973); Roman v. Ashcroft, 340 F.3d 314, 318-20 (6th Cir. 2003). Thus,



because the petition indicates that Petitioner is currently incarcerated at **Freeborn County Adult Detention Center in Minnesota**, the proper venue for this action is the United States District Court for the **District of Minnesota**, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of Democratic Republic of the **Congo**. Petitioner was taken into ICE custody on **July 18, 2024**, and has remained in ICE custody continuously since that date. Petitioner was ordered remove on **December 10, 2024**.

7. Respondent **Merrick B. Garland** is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, **Mr. Garland** has ultimate custodial authority over Petitioner.

8. Respondent **Alejandro Mayorkas** is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, **Alejandro Mayorkas** is the legal custodian of Petitioner.

9. Respondent **Kevin Rycraft** is one of the ICE Field Director of the Detroit Field Office of ICE and is Petitioner's immediate custodian who has signed Petitioner's continued Detention Letters. **See Vasquez v. Reno** 233 F.3d 688, 690 (1st Cir. 2000), **cert. denied**, 122 S. Ct. 43 (2001).

10. Respondent Warden of **Freeborn County Detention Center**, where Petitioner is currently detained under the authority of ICE, alternatively, may be considered to be Petitioner's immediate custodian.



FACTUAL ALLEGATIONS

11. Petitioner, MADOGO KALALIZI, is a native and citizen of Democratic Republic of the Congo. Petitioner has been in ICE custody since July 18, 2024. An Immigration Judge ordered the Petitioner removed on December 10, 2024. Petitioner waived his right to appeal.

12. Petitioner entered the United States on or about October 4, 2017 as a refugee, and he has not left since arriving.

13. Petitioner was arrested in Minnesota and charged with manslaughter on January 24, 2022. Petitioner pleaded guilty to the charge and was sentence to 60 months.

14. Petitioner was released on July 18, 2024 to ICE custody and was transported to a county jail under ICE supervision in Minnesota.

15. ICE tried obtaining respondent's travel documents from his country of origin and unsuccessfully failed to obtain them. Petitioner has assisted ERO in obtaining a passport or travel document from the Democratic Republic of Congo on multiple occasions.

LEGAL FRAME OF WORK FOR RELIEF SOUGHT

16. Detention, release, and removal of aliens ordered removed is governed by the provisions of 8 U.S.C. § 1231. Under § 1231(a), the Attorney General has ninety days to remove an alien from the United States after his order of removal, during which time detention is mandatory. Section 1231(a)(1)(B) provides the following:

The removal period begins to run on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if the court orders a stay of the removal of the alien, the date of the court's final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement. 8 U.S.C. § 1231.



17. At the conclusion of the ninety-day period, the alien may be held in continued detention, or may be released under continued supervision. 8 U.S.C. §§ 1231(a)(3) & (6). The statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States. It does not permit indefinite detention." *Zadvydas v. Davis*, 533 U.S. 678, 689, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). "Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. To establish uniformity in the federal courts, a period of six months was recognized as a "presumptively reasonable period of detention." *Id.* at 701.

18. If at the conclusion of the six-month period the alien provides good reason to believe that there is no significant likelihood of deportation in the reasonably foreseeable future, the burden shifts to the government to "respond with evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701.

19. Here, the presumptively reasonable six month period began running on **December 10, 2024**, the date the order of removal became administratively final. The six-month period has recently expired, and ICE has failed to remove Petitioner. He argues that no special circumstances exist to justify his continued detention and that there is no significant likelihood of removal in the reasonably foreseeable future and, thus, his detention violates statutes, regulations, and the Constitution.

20. Moreover, he has presented evidence satisfying his burden that there is no significant likelihood of his removal in the reasonably foreseeable future as required by *Zadvydas*, 533 U.S. at 701. Consequently, he has shown that his detention is statutorily unauthorized or violates due process. See, e.g., *Joseph v. United States*, 127 F. App'x 79, 81 (3d Cir. 2005)



ARGUMENT

I. STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property, 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 v. Davis, 533 U.S. 678, 690 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). It is well established that this protection extends to noncitizens, including in removal proceedings. Reno v. Flores, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993). Moreover, "due process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake... are both particularly important and more substantial than mere loss of money. " Cooper v. Oklahoma, 517 U.S. 348, 363, 116 S. Ct. 1373, 134 L. Ed. 2d 1 (1996).

II. ZADVYDAS AS APPLIED TO PETITIONER

23. Petitioner essentially raises the following argument in support of his assertion that there is no significant likelihood of his removal in the reasonably foreseeable future: (1) delay in obtaining travel documents; Petitioner states that he "does not believe that ICE possesses a valid travel document for him," Pet. ¶ 27, and little progress has been made to obtain a travel document. When a foreign country delays issuing travel documents "for an extraordinarily long period" of time, it may be possible to infer "that documents will not issue at all, and thus that there is no significant likelihood of removal." Jaiteh v. Gonzales, No. 07-cv-1727 (PJS/JJG), 2008 WL 2097592, at *3 (D. Minn. Apr. 28, 2008), report and recommendation adopted, 2008 WL



2074163 (D. Minn. May 14, 2008); accord *Ahmed v. Brott*, No. 14-cv-5000 (DSD/BRT), 2015 WL 1542131, at *4 (D. Minn. Mar. 17, 2015), report and recommendation adopted, 2015 WL 1542155 (D. Minn. Apr. 7, 2015). Stated differently, "at some point in time the inability to procure travel documents may provide 'good reason' to believe that removal is unlikely to be carried out." *Joseph v. United States*, 127 F. App'x 79, 82 (3d Cir. 2005) (per curiam).

III. LIKELIHOOD OF REMOVAL IN THE FORESEEABLE FUTURE

24. [c]ourts have found no significant likelihood of removal in five types of cases: (1) where the detainee is stateless and no country will accept him; (2) where the detainee's country of origin refuses to issue a travel document; (3) where there is no repatriation agreement between the detainee's native country and the United States; (4) where political conditions in the country of origin render removal virtually impossible; and (5) where a foreign country's delay in issuing travel documents is so extraordinarily long that the delay itself warrants an inference that the documents will likely never issue. *Ahmed*, 2015 WL 1542131, at *4 (citing cases); see also, e.g., *Deqa M. Y. v. Barr*, No. 20-cv-1901 (ECT/DTS), 2020 WL 4926618, at *2 (D. Minn. Aug. 21, 2020). "In other words, for there to be no significant likelihood of removal in the foreseeable future, there must be some indication that the government is either unwilling, or due to seemingly insurmountable barriers, incapable of executing an alien's removal." *Ahmed*, 2015 WL 1542131, at *4. Petitioner contends that he falls within one of these categories and there is indication that ICE is unwilling or incapable of securing Petitioner's removal.

25. As stated above, cases in which aliens have challenged their continued detention under § 1231 while travel documents are pending acknowledge "that 'at some point in time the inability to procure travel documents may provide good reason to believe that removal is unlikely to be carried out.'" *Macow v. Sessions* No. 16-cv-3408 (JRT/TNL), 2017 WL 1753293,



at *4 (D. Minn. Apr. 4, 2017) (quoting Joseph, 127 F. App'x at 82) (internal quotation marks omitted), report and recommendation adopted, 2017 WL 1855858 (D. Minn. May 5, 2017). In such circumstances, "it may be possible to infer 'that documents will not issue at all . . .'" Id. (quoting Jaiteh, 2008 WL 2097592, at *3) (alteration in original).

CONCLUSION

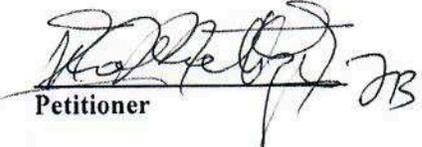
26. Petitioner has met his burden and therefore is entitled to relief under Zadvydas.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Grant Petitioner a writ of habeas corpus directing Respondents to immediately release Petitioner from custody;
3. Award Petitioner attorney's fees and cot under Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. 504 and 28 U.S.C. 2412 and on any other basis justified under law;
and
4. Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.


Petitioner

KALALIZI MADOGO


**FREEBORN COUNTY DETENTION CENTER
PO DRAWER 170
ALBERT LEA, MN 56007**

06-12-2025

Date executed