

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT COURT OF MINNESOTA  
Civil No. 25-cv-02532-LMP-ECW

ABDIRASHID MOHAMED AHMED

  
Petitioner,

v.

**James Mchenry and Lisa Monaco,**  
US ATTORNEY GENERAL;  
**Kristi Noem,**  
SECRETARY OF DEPARTMENT OF  
HOMELAND SECURITY;  
**Peter Berg,**  
FIELD OFFICE DIRECTOR FOR THE  
MINNEAPOLIS FIELD OFFICE  
**Warden** of Freeborn County Detention Center,

Respondents,

**RECEIVED**  
JUL 15 2025  
CLERK, U.S. DISTRICT COURT  
MINNEAPOLIS, MINNESOTA

SCANNED  
JUL 16 2025  
U.S. DISTRICT COURT MPLS

**BRIEF IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS**

**Question Presented**

- 1) Has petitioner carried his burden in proving that there is not a significant likelihood of his removal in the reasonably foreseeable future?
- 2) Should petitioner be granted preliminary injunction and TRO enjoining respondent from re-detaining him?

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### INTRODUCTION

Respondent filed a response to the petition for writ of habeas corpus. Petitioner file a response in opposition to this motion.

### BACKGROUND

On June 2, 2021 Petitioner was detained for removal. (EFC No 5 page 3) Petitioner was ordered removed on February 18, 2022.

On May 19, 2022 ICE released petitioner from immigration custody on an order of supervision because it had determined that removal was not significantly likely in the reasonably foreseeable future. The release notification letter informed petitioner that ICE would continue to make efforts to obtain a travel document and, "Once a travel document is obtained, you will be required to surrender to ICE for removal. You will, at that time, be given an opportunity to prepare for an orderly departure.

Petitioner was unlawfully re-detained by ICE on May 20, 2025 without given an opportunity to prepare for an orderly departure. Petitioner filed this federal habeas petition on June 7, 2025.

Petitioner post-removal-order detention under Zadvydas has been satisfied with his previous detention before he was released under an order of supervision. Petitioner was released from ICE custody after they determined that there is no significant likelihood of removal in the reasonably foreseeable future. For the reasons discussed below, petition is not premature and petitioner should be granted immediate released.

## ARGUMENTS

### I. Regulatory Requirements of § 241.13(i)(2) Change of circumstances

Section 241.13 governs how ICE should determine whether there is a significant likelihood of removing a noncitizen in the reasonably foreseeable future. Subsection (f) details several factors that ICE must consider in making the foreseeability inquiry. See 8 C.F.R. § 241.13(f) ("[ICE's Headquarters Post-order Detention Unit] shall consider all the facts of the case including, but not limited to, the history of the alien's efforts to comply with the order of removal, the history of [ICE]'s efforts to remove aliens to the country in question or to third countries, including the ongoing nature of [ICE]'s efforts to remove this alien and the alien's assistance with those efforts, the reasonably foreseeable results of those efforts, and the views of the Department of State regarding the prospects for removal of aliens to the country or countries in question."). Subsection (i) applies that reasonable foreseeability test to determining when a noncitizen on supervised release can be re-detained. See § 241.13(i)(2).

Similarly here, if Petitioner is re-detained, the law requires it be due to changed factual circumstances with related to the likelihood of removal, or a violation of conditions. See 8 C.F.R. § 241.13(i). Petitioner does not challenge the decision to try to execute his removal. Petitioner claims that his renewed detention was unlawful because the government by failing to adhere to regulatory procedures, neither offered nor proved any "special justification" that existed at that time to outweigh his "constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356, 117 S. Ct. 2072, 138 L. Ed. 2d 501 (1997)).

Petitioner is clear that he does not challenge the order of removal entered against him in 2022. Rather, his claim is against the process that ICE followed in cancelling his Order of Supervision and returning him to detention.

## **II. Capable Of Repetition Yet Evading Review**

This doctrine applies in petitioner's case, since petitioner was released from custody on 2022 and has been arrested by ICE without he violated his release provisions or, due to changed circumstances. The exception to the mootness doctrine based on activities capable of repetition but evading review does not apply unless "there is a reasonable expectation that the same complaining party will be subject to the same action again." *Minnesota Humane Society*, 184 F.3d at 797 (emphases added).

The government is already foreclosed under federal law from further detaining petitioner unless he violates his release provisions or, due to changed circumstances. Petitioner asserts that Federal respondent have therefore not complied with the applicable regulatory requirements, and petitioner's claims premised on a failure to follow those requirements should be granted. Also, there is procedural due process violation since, as discussed, ICE has not complied with its regulatory obligations.

## **III. Travel Document**

Petitioner alleges travel document has not been produced since Somalia doesn't have a working government. Respondent should provide petitioner alleged travel document and a removal plan to the court before the court consider dismissing petitioner's request. Petitioner request the court to order respondent to respond within 10 days with travel document and travel plans. If respondent fail to do so in a timely manner, petitioner should be granted release.

**CONCLUSION**

Petitioner unlawful detention by ICE is in violation of the Fifth Amendment of the United States Constitution and due process clause. Therefore, Petitioner is entitled to be granted habeas corpus, preliminary and permanent injunction and temporary restraining order enjoining respondent from future unlawful detention of petitioner.

Respectfully submitted,

*Abdirashid Ahmed*

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Date: July 14, 2025