

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Sonam TSERING,

Petitioner,

v.

Pamela BONDI, U.S. Attorney General;

Kristi NOEM, Secretary, Department of
Homeland Security;

Todd LYONS, Acting Director,
Immigration and Customs Enforcement;

Ryan SHEA, Sheriff, Freeborn County
Jail,

Respondents.

Civil Action No: 25-cv-

**PETITION FOR WRIT OF HABEAS
CORPUS**

**8 U.S.C. § 1231
28 U.S.C. § 2241**

I. INTRODUCTION

1. Respondents are unlawfully detaining Petitioner, Sonam Tsering (“Mr. Tsering”) under the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1231.

Respondents are currently unlawfully and unreasonably subjecting Mr. Tsering to prolonged and indefinite post-order detention, with no likelihood of removal in the reasonably foreseeable future. Mr. Tsering was ordered removed on June 28, 2021, and his removal order became administratively final on July 28, 2021.
2. On November 12, 2024, Mr. Tsering was taken into custody by Immigration and Customs Enforcement. Respondents have detained Mr. Tsering for 244 days under § 1231, in excess of the statutory removal period and the presumptively reasonable

period under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

3. On November 29, 2018, the Department of Homeland Security commenced removal proceedings against Ms. Tsering by filing a Notice to Appear. Ms. Tsering applied for asylum, withholding of removal, and protection under the Convention Against Torture. Ms. Tsering's application for asylum and withholding of removal were denied, but his application for deferral of removal under the Convention Against Torture was granted on June 28, 2021. His removal order became administratively final on July 28, 2021, when the period to submit an appeal expired.
4. On November 12, 2024, Mr. Tsering's was released from prison and taken into custody by Immigration and Customs Enforcement. He has been detained by Respondents for a total of 244 days with no end in sight.
5. The Supreme Court has held that it is presumptively reasonable for the government to detain a noncitizen with a final order of removal for six months or less. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* "[T]he habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely assuring the alien's presence at the moment of removal. Thus, if removal is not reasonably foreseeable, the court should hold

continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700.

6. Here, the removal period began on November 12, 2024, the date the Ms. Tsering was taken into custody by Immigration and Customs Enforcement. Mr. Tsering’s detention during this removal period exceeded 180 days. Currently, there is no substantial likelihood of removal in the reasonably foreseeable future because ICE has been unable to execute Mr. Tsering’s removal order over the last 180 days.
7. To remedy this unlawful detention, Mr. Tsering seeks relief in the form of immediate release from detention on reasonable conditions determined by ICE pursuant to 8 C.F.R. § 241.5.
8. Mr. Tsering also requests that this Court order Respondents to produce a copy of any valid travel document they possess for him, and evidence demonstrating the likelihood of an upcoming flight outside of the United States, should it exist.

II. JURISDICTION AND VENUE

9. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). Because Mr. Tsering seeks to challenge his custody as a violation of the Constitution, laws, or treaties of the United States, jurisdiction is proper in this court. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness of their

detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (“[T]he primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases.”); *Moallin v. Cangemi*, 427 F.Supp.2d 908, 920–21 (D. Minn. 2006).

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Mr. Tsering is detained within this District. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because some of the Respondents are headquartered within this District.

III. PARTIES

11. Petitioner Sonam Tsering is a native and citizen of China. Mr. Tsering was denied asylum and withholding of removal by the Immigration Court on June 28, 2021, but his application for deferral under the Convention Against Torture was granted. Ms. Tsering’s order of removal became final on July 28, 2021, when the appeal window closed. On November 12, 2024, Ms. Tsering was taken into custody by Immigration and Customs Enforcement. He has been held in continued post-order detention since November 12, 2024. He is currently detained at the Freeborn County Jail in Albert Lea, Minnesota.
12. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the Board of Immigration Appeals and the immigration judges as a subunit—the Executive Office for Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration laws,

including detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Mr. Tsering. Attorney General Bondi's official address is 950 Pennsylvania Avenue NW, Washington, D.C. 20530.

13. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Mr. Tsering's detention and removal, and as such is a legal custodian of Mr. Tsering. Secretary Noem's official address is 245 Murray Lane SW, Washington, D.C. 20528.
14. Respondent Todd Lyons is being sued in his official capacity as the Director of Immigration and Customs Enforcement, a sub-unit of the Department of Homeland Security. In that capacity, Director Lyons has supervisory capacity over ICE personnel in Minnesota, and he is the head of the agency that retains legal custody of Mr. Tsering. Acting Director Lyons's official address is 500 12th Street SW, Washington, D.C. 20536.
15. Respondent Ryan Shea is being sued in his official capacity as the Sheriff of Freeborn County, Minnesota. In that capacity, Sheriff Shea is responsible for the Freeborn County Jail—a detention facility under contract with ICE and the physical location where Mr. Tsering is currently in custody. The address for Freeborn County Jail is 411 Broadway Ave, Albert Lea, MN 56007.

IV. EXHAUSTION

16. Mr. Tsering has exhausted his administrative remedies as required by law. Judicial action is his only remedy. Mr. Tsering is being detained despite his removal being significantly unlikely in the foreseeable future.
17. No statutory exhaustion requirement applies to Mr. Tsering's claim of unlawful detention.
18. The immigration court does not have jurisdiction to order Mr. Tsering's release.
19. No administrative remedies currently exist under the law to challenge indefinite post-order detention where there is no reasonable likelihood that removal will occur in the foreseeable future.

V. FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

20. Petitioner, Sonam Tsering, is a 44-year-old native and citizen of the People's Republic of China. *See* Ex. A (NTA) at 3.
21. Mr. Tsering was admitted to the United States on August 20, 2008 as a non-immigrant R1 visa holder. Ex. A (NTA) at 3.
22. On October 20, 2010, Mr. Tsering was granted asylum by an Immigration Judge and he subsequently adjusted his status to that of a permanent resident on May 25, 2012 under INA Section 209(b). Ex. A (NTA) at 3.
23. On August 14, 2018, Mr. Tsering was convicted in the Hennepin County District Court for two offenses of engages in the sex trafficking of an individual in violation of Minnesota Statute Section 609.322, subdivision 1a(4). Ex. A (NTA) at 3.

24. On November 29, 2018, the Department of Homeland Security initiated removal proceedings against Ms. Tsering by filing a Notice to Appear (NTA). Ex. A (NTA).
25. The Immigration Judge (“IJ”) sustained the single charge of removability lodged against him. Ex. A (NTA) at 3. At the time of his removal proceedings, Ms. Tsering was incarcerated at a Minnesota Correctional Facility.
26. Mr. Tsering filed applications for asylum, withholding of removal, and protection under Article III of the Convention Against Torture.
27. On June 28, 2021, the Immigration Judge denied Ms. Tsering’s application for asylum and withholding of removal, but granted his application for deferral of removal under the Convention Against Torture. Ex. B (IJ Decision).
28. The Department of Homeland Security did not file a notice of appeal before the expiration of the appeal deadline. As a result, his removal order became administratively final on July 28, 2021. *See* Ex. B (IJ Decision).
29. On November 12, 2024, Ms. Tsering completed his prison sentence and was released from State custody. Upon release, he was detained by Immigration and Customs Enforcement.
30. On February 6, 2025, ICE held a 90-day custody review. ICE decided to continue Mr. Tsering’s detention at that time on the basis that he had been convicted of an aggravated felony and because ICE is pursuing his removal to a third country. Ex. C (ICE Decision to Continue Detention).

31. On April 24, 2025, ICE held a telephonic interview with Mr. Tsering for his 180-day custody review. Ex. D (Notice of Interview for Review of Custody Status). Following this interview, Mr. Tsering's detention status remained the same.
32. Mr. Tsering has been detained by Respondents for 244 days since he was taken into custody on November 12, 2024. Respondents have, to date, been unable to execute Mr. Tsering's removal or obtain a travel document and do not appear to have definite plans to do so in the near future.
33. Mr. Tsering has complied with all requests by Respondents and has fully cooperated with Respondents' efforts to remove him.
34. Mr. Tsering has not been given any specific information about a travel document or a flight plan for his removal.
35. As of the date of this filing, Mr. Tsering has spent 244 days in ICE custody.
36. Mr. Tsering has exhausted his administrative remedies. No other court of competent jurisdiction has the authority to order the release of Mr. Tsering.

VI. LEGAL FRAMEWORK

A. STATUTORY & REGULATORY FRAMEWORK

37. Under 8 U.S.C. § 1231, noncitizens with a final order of removal shall be removed from the United States within a period of 90 days. 8 U.S.C. § 1231(a)(1)(A).
38. The beginning of the 90-day removal period is determined by 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 a 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.

Id. at § 1231(a)(1)(B).

39. During the removal period, the noncitizen may be detained, and may not be released under any circumstances if found inadmissible or deportable on criminal or national security grounds. § 1231(a)(2).

40. If the noncitizen is not removed during the 90-day period, he or she “shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien”:

- (A) to appear before an immigration officer periodically for identification;
- (B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;
- (C) to give information under oath about the alien’s nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and
- (D) to obey reasonable written restrictions on the alien’s conduct or activities that the Attorney General prescribes for the alien.

§ 1231(a)(3).

41. The removal period may be extended beyond 90 days and the noncitizen may remain detained if the noncitizen frustrates his or her removal. § 1231(a)(1)(C).

42. Alternatively, the noncitizen may be detained beyond the 90 days if he or she is inadmissible under § 1182 or removable under various sections of § 1227, or determined to be a risk to the community or unlikely to comply with the order of removal. § 1231(a)(6); 8 C.F.R. § 241.4(a).

B. PROLONGED DETENTION

43. The Due Process Clause of the Fifth Amendment requires that “[n]o person shall .

. . . be deprived of liberty . . . without due process of law.” “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). In the context of immigration detention, at a minimum, detention must “bear[] a reasonable relation to the purpose for which the individual [was] committed.” *Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). If “detention’s goal is no longer practically attainable,” detention becomes unreasonable and therefore violates the Fifth Amendment right to due process. *Id.*

44. The Fifth Amendment Due Process Clause also requires that Respondents follow procedures that are adequate to establish that detention is both statutorily and constitutionally valid. *See Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) (“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.”).
45. Under the canon of constitutional avoidance, no immigration detention statute should be construed in a way that would violate the Constitution where it is “fairly possible” to avoid doing so. *Zadvydas*, 533 U.S. at 689.
46. In *Zadvydas*, the Supreme Court held that, while the statute provides for a removal period of 90 days, post-order detention up to 180 days was presumptively reasonable. *Id.* at 701. After six months, the burden is on the government to rebut a showing by the noncitizen “that there is no significant likelihood of his removal

in the reasonably foreseeable future.” *Id.* “[W]hat constitutes the ‘reasonably foreseeable future’ shrinks as the total period of postremoval confinement grows.” *Moallin v. Cangemi*, 427 F. Supp. 2d 908, 915 (D. Minn. 2006).

VII. CAUSES OF ACTION

COUNT ONE: VIOLATION OF 8 U.S.C. § 1231 – PROLONGED DETENTION

47. Petitioner re-alleges and incorporates by reference the paragraphs above.
48. Mr. Tsering’s detention has exceeded and will continue to exceed the six-month presumptive threshold under *Zadvydas*, as he has now been detained for 244 days under § 1231.
49. Respondent’s do not possess a valid travel document for Mr. Tsering and there is no substantial likelihood of removal in the reasonably foreseeable future.
50. Therefore, 8 U.S.C. § 1231 does not authorize detention of Mr. Tsering as removal is no longer likely to occur in the reasonably foreseeable future.

COUNT TWO: VIOLATION OF FIFTH AMENDMENT SUBSTANTIVE DUE PROCESS

51. Petitioner re-alleges and incorporates by reference the paragraphs above.
52. The Fifth Amendment Due Process Clause protects against arbitrary and indefinite detention by the executive branch. *Zadvydas*, 533 U.S. at 699.
53. Due process requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals. *See Zadvydas*, 533 U.S. at 690-91. As removal is not reasonably foreseeable for Mr. Tsering and Respondents can only offer a vague plan for

removal, his detention is arbitrary and unreasonable, and therefore in violation of the Fifth Amendment's guarantee of Due Process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner asks this Court for 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 the Respondents to show cause within 3 days why the writ of habeas corpus should not be granted;
4. Order Respondents to produce to the Court and Petitioner any valid travel document for Petitioner in their possession;
5. Order Respondents to produce to the Court and Petitioner evidence demonstrating their ability to execute a removal flight outside of the United States in the near future;
6. Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody on an Order of Supervision with any conditions deemed necessary pursuant to 8 C.F.R. § 241.5; and
7. Grant any and all further relief this Court deems just and proper.

Dated: July 14, 2025

Respectfully submitted,

s/ Maria Miller

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