

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

FADEL ALI AL MASRI,

Petitioner,

v.

KRISTI NOEM, Secretary of the Department
of Homeland Security ("DHS"); TODD
LYONS, Acting Director of Immigration and
Customs Enforcement ("ICE"); MIGUEL
VERGARA, ICE Enforcement and Removal
Operations, Harlingen Field Office Director;
PAMELA BONDI, Attorney General of the
United States; and WARDEN, EL VALLE
DETENTION FACILITY,

Respondents.

CIVIL ACTION NO.: 7:25-cv-00407

AMENDED PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. § 2241)

1. Petitioner, Fadel Ali Al Masri, by and through undersigned counsel, respectfully submits this Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner previously filed a *pro se* petition with this Court on August 14, 2025.

2. This Amended Petition supersedes the *pro se* filing and presents additional factual and legal bases demonstrating that Petitioner's continued detention is unlawful. Specifically, Petitioner is *prima facie* eligible for Temporary Protected Status (TPS) as a national of Lebanon, a country designated for TPS by DHS on November 27, 2024. Notwithstanding his eligibility, ICE has obstructed his ability to complete the TPS process by refusing to facilitate his biometrics and denying his release. His continued detention therefore violates the Immigration and

Nationality Act (“INA”), the Administrative Procedure Act (“APA”), and the Due Process Clause of the Fifth Amendment.

3. Petitioner hereby adds the following officials in their official capacities: Todd Lyons, Acting Director of Immigration and Customs Enforcement (“ICE”); Miguel Vergara, Field Office Director of ICE Enforcement and Removal Operations (“ERO”) in Harlingen, Texas; Pamela Bondi, Attorney General of the United States; and the Warden of the El Valle Detention Facility. These individuals are proper respondents because they have legal custody over Petitioner or exercise authority over the decision to detain him.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States. This Court also has jurisdiction under 28 U.S.C. §§ 1331 and 1346, as this matter arises under the Constitution and laws of the United States.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e), as Petitioner is detained within the Southern District of Texas at the El Valle Detention Facility in Raymondville, Texas.

PARTIES

6. Petitioner, Fadel Ali Al Masri, is a 26-year-old native and citizen of Lebanon. He entered the United States without inspection on September 5, 2024, and has been detained at the El Valle Detention Facility since that date.

7. Respondent Kristi Noem, Secretary of the Department of Homeland Security (“DHS”), has ultimate supervisory authority over DHS, including the detention of noncitizens.

8. Respondent Todd Lyons, Acting Director of U.S. Immigration and Customs Enforcement, oversees the nationwide operations of ICE, including detention and removal functions.

9. Respondent Miguel Vergara, Field Office Director of Enforcement and Removal Operations for the Harlingen Field Office, exercises direct authority over Petitioner's detention and custody.

10. Respondent Pamela Bondi, Attorney General of the United States, is the nation's chief law enforcement officer and has supervisory authority over the Executive Office for Immigration Review.

11. Respondent Warden of the El Valle Detention Facility, the immediate custodian of Petitioner, is responsible for his physical confinement.

FACTUAL BACKGROUND

12. Petitioner entered the United States without inspection on September 5, 2024. He sought asylum but was denied by an Immigration Judge on February 13, 2025, and ordered removed. Petitioner initially appealed but later withdrew his appeal on July 24, 2025, rendering his removal order final.

13. On November 27, 2024, DHS designated Lebanon for TPS due to ongoing extraordinary and temporary conditions that prevent its nationals from safely returning. *See* Designation of Lebanon for TPS, 89 Fed. Reg. 93641 (Nov. 27, 2024). Pursuant to 8 U.S.C. § 1254a, Lebanese nationals are entitled to seek TPS, which provides lawful status and protection against removal. *See also Sanchez v. Mayorkas*, 593 U.S. 409, 413 (2021) (TPS status protects foreign nationals from removal and authorizes them to work here for as long as the TPS designation lasts).

14. Petitioner timely filed a TPS application on April 11, 2025. ICE refused to facilitate his biometrics, thereby obstructing adjudication. ICE continued to deny his release and obstruct his processing.

15. Petitioner, both through undersigned counsel and in prior *pro se* filings, has repeatedly submitted requests for release from custody to ICE and ERO officials. Each of these requests was summarily denied without explanation or meaningful consideration, leaving Petitioner without an adequate administrative remedy or justification for his ongoing detention.

LEGAL CLAIMS

Count I

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2),
the Immigration and Nationality Act – 8 U.S.C. § 1231,
***Zadvydas v. Davis*, and Federal Regulations**

16. Petitioner restates and realleges all paragraphs as if fully set forth herein.

17. Under the APA, a court shall “hold unlawful and set aside agency action” that is an arbitrary, capricious, or an abuse of discretion. 5 U.S.C. § 706(2)(A).

18. On November 27, 2024, the Secretary of Homeland Security designated Lebanon for TPS. 89 Fed. Reg. 93641 (Nov. 27, 2024).

19. Congress has provided that “[i]n the case of an alien who establishes a *prima facie* case of eligibility for benefits under paragraph (1), until a final determination with respect to the alien’s eligibility for such benefits under paragraph (1) has been made, the alien shall be provided such benefits.” 8 U.S.C. § 1254a(b)(4). Paragraph (1) provides that “the Attorney General, [...] shall not remove the alien from the United States during the period in which such status is in effect [.]” 8 U.S.C. § 1254a(a)(1).

20. Petitioner has established such *prima facie* eligibility: he is a Lebanese national who entered the United States on September 5, 2024—well before the continuous residence cutoff of October 16, 2024—and has remained continuously present in the United States since before the continuous physical presence date of November 27, 2024.

21. Petitioner's continued detention now exceeds the 90-day removal period under 8 U.S.C. § 1231(a)(1)(A).

22. The Supreme Court in *Zadvydas* made clear that post-removal-period detention must be limited to a "period reasonably necessary to bring about that alien's removal," and that when removal is not significantly likely in the reasonably foreseeable future, continued detention violates both statutory and constitutional limits. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). Once the removal of a deportable alien is no longer reasonably foreseeable, continued detention is not authorized under 8 U.S.C. § 1231(a)(6).

23. By operation of law, any individual granted TPS "shall not be removed from the United States during the period in which such status is in effect." 8 U.S.C. § 1254a(a)(1)(A). Because Lebanon's TPS designation is valid through May 27, 2026, DHS is legally barred from executing Petitioner's removal for the duration of this designation.

24. Petitioner's continued detention is not only unnecessary but also unlawful.

25. Respondents cannot meet their burden under *Zadvydas* to demonstrate that Petitioner's removal is significantly likely in the reasonably foreseeable future.

26. ICE obstructing Petitioner's ability to complete the TPS process by refusing to facilitate his biometrics and denying his release is arbitrary, capricious, an abuse of discretion, and not in accordance with law.¹

¹ Per an intradepartmental agreement, U.S. ICE, ERO is responsible for conducting background and security checks for individuals incarcerated at DHS facilities and for applying for benefits with USCIS. See *Biometrics Collection*, USCIS Policy Manual, Volume 1, Part C, Chapter 2.

Count II

Violation of the Due Process Clause of the Fifth Amendment

27. Petitioner restates and realleges all paragraphs as if fully set forth herein.

28. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. amend. V. Due process protects “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

29. The Fifth Circuit has explained that if government action is clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare, it may be declared unconstitutional. *FM Props. Operating Co. v. City of Austin*, 93 F.3d 167, 174 (5th Cir. 1996).

30. Petitioner's detention is arbitrary and unreasonable, has no substantial relation to the public health, safety, morals, or general welfare, and it is, therefore, unconstitutional.

31. Indefinite detention without a foreseeable prospect of removal, and without access to adjudication of TPS, constitutes a violation of Petitioner's substantive and procedural due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Court:

1. Accept this Amended Petition as the operative pleading in this matter;

2. Issue a writ of habeas corpus ordering Petitioner's immediate release from custody, subject to conditions of supervision;
3. Declare that Petitioner's continued detention violates the INA, the APA, and the Due Process Clause of the Fifth Amendment;
4. Order Respondents to facilitate Petitioner's TPS biometrics and adjudication without delay;
5. Enjoin Respondents from re-detaining Petitioner absent a significant change in circumstances demonstrating a likelihood of removal in the reasonably foreseeable future; and
6. Grant such other relief as this Court deems just and proper.

Respectfully submitted on the 28th day of AUGUST 2025.

s/Amro Elsayed

The Law Office of Amro Elsayed, PLLC

NC Bar Number: 57292

SDTX No. 3932930

Attorney for Petitioner

1540 Westbrook Plaza Dr, Suite C

Winston-Salem, NC 27103

amro@elsayedlawoffice.com

(336)776-0363

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Fadel Al Masri, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this **28th** day of **AUGUST** 20**25**

s/Amro Elsayed

The Law Office of Amro Elsayed, PLLC

NC Bar Number: 57292

SDTX No. 3932930

Attorney for Petitioner

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Winston-Salem, NC 27103

amro@elsayedlawoffice.com

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