

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Kauser Mohamoud Yusuf,

Petitioner,

v.

Kristi Noem, Secretary, U.S. Department of
Homeland Security;

Department of Homeland Security;

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

John E. Cantú, Director, Phoenix Field
Office Immigration and Customs
Enforcement;

and,

Fred Figueroa, Warden of Eloy Federal
Detention Center.

Respondents.

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Kauser Mohamoud Yusuf, through Counsel, respectfully petitions this Court for a Writ of Habeas Corpus under 28 U.S.C. § 2241 to remedy her unlawful detention.


JURISDICTION AND VENUE

2. 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). This action further arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), specifically, 8 U.S.C. § 1101-1537.
3. Because Yusuf seeks to challenge her custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court. Zadvydas, v. Davis, 533 U.S. 678 (2001).
4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. Demore v. Kim, 538 U.S. 510,

516–17 (2003); Jennings v. Rodriguez, 138 S. Ct. 830, 839–41 (2018);
Nielsen v. Preap, 139 S. Ct. 954, 961–63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Yusuf is detained within this District. She is currently detained at the Eloy Federal Detention Center in Eloy, Arizona. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

6. Petitioner Yusuf is a citizen of Somalia and a resident of Dakota County, Minnesota, though she is currently detained in Pinal County, Arizona. Petitioner was first taken into ICE custody on December 16, 2019, and released on March 16, 2020. On August 28, 2025, Yusuf was apprehended by Customs and border protection before being taken back into ICE custody on August 30, 2025, where she has remained in detention since.
7. Yusuf’s alien registration number is A 
8. Yusuf is currently in custody at the Immigration and Customs Enforcement (“ICE”) detention center in Eloy, Arizona, pursuant to a final order of removal, though she has been granted Deferred Action under the Convention Against Torture, permanently bring her removal to Somalia.

9. 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 8 U.S.C. § 1103(a), routinely transacts business in the District of Arizona, supervises the Pheonix ICE Field Office, and is legally responsible for pursuing Yusuf's detention. As such, Respondent Noem is a legal custodian of Yusuf.
10. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, including Yusuf. As such, DHS is a legal custodian of Yusuf.
11. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, which oversees the detention of aliens in the United States. Mr. Lyons is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention. As such, Respondent Lyons is a legal custodian of Yusuf.
12. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens. As such, ICE is a legal custodian of Yusuf.

13. Respondent Sam Olson is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Olson has supervisory authority over the ICE agents responsible for detaining Yusuf. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111, and it is the field office with jurisdiction over Yusuf's detention in Minnesota. As such, Respondent Olson is a legal custodian of Yusuf.
14. Respondent Fred Figueroa is being sued in his official capacity as the Warden of Eloy Federal Detention Center. Because Petitioner is detained in the Eloy Federal Detention Center, Respondent has immediate day-to-day control over Petitioner. As such, Respondent Figueroa is a legal custodian of Yusuf.

EXHAUSTION

15. A final order of removal has been entered against Petitioner.
16. Petitioner has been granted Deferred Action Under the Convention Against Torture, which is administratively final and permanently bars her removal to Somalia.
17. There are no legal proceedings pending in any other federal court, state court, or administrative tribunal.

18. Petitioner has exhausted her administrative remedies to the extent possible in that she has filed an administrative request that her detention cease based on the absence of any change in the basis for her release on supervision pursuant to 8 C.F.R. § 241.13(h)(4)(i)(3). As she remains detained, her only remedy is by way of this judicial action.
19. Moreover, no statutory exhaustion requirement applies to Petitioner's claim of unlawful detention. McCarthy v. Madigan, 503 U.S. 140, 144 (1992); 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final removal order).

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

20. Yusuf is a native and citizen of Somalia.
21. On July 5, 2005, Yusuf entered the United States as a refugee.
22. On January 10, 2007, Yusuf adjusted status and became a lawful permanent resident of the United States.
23. On December 23, 2014, Yusuf was convicted of aiding and abetting the sex trafficking of an individual under 18 years of age under Minn. Stat. § 609.322.1(a)(4).
24. On February 27, 2015, Yusuf was sentenced to 90 months, which she served at the Minnesota Correctional Facility in Shakopee, Minnesota.
25. On May 28, 2015, Respondents initiated removal proceedings against Yusuf.

26. On June 19, 2018, Yusuf filed an application for asylum, Withholding of Removal and relief under the Convention Against Torture.
27. On November 5, 2018, Yusuf's applications for asylum and withholding of removal were denied, and she was ordered removed to Somalia, however, she was granted Deferred Action under the Convention Against Torture, barring Respondents from removing her to Somalia.
28. On December 16, 2019, Yusuf finished her criminal sentence in case number 62-CR-13-9491 and was transferred to ICE custody.
29. On March 16, 2020, Yusuf was released from Respondent ICE's custody and issued work authorization and required to check in periodically with Respondent ICE.
30. Since her release on March 16, 2020, Yusuf has pursued her education, obtaining an associate's degree with honors in May of 2024 and a commercial driver's license in August of 2024.
31. Since obtaining her commercial driver's license, Yusuf as a long-haul trucker, transporting goods around the United States.
32. Since her release on March 16, 2020, Yusuf has also been involved with a support group for sex trafficking victims called Breaking Free, in St. Paul, Minnesota, attending bi-weekly meetings.

33. On August 26, 2025, Yusuf contracted to transport a load of lumber from Philomath, Oregon to Yuma, Arizona, on behalf of Pony Express Group, which is the company under which she operates as an independent contractor.
34. On August 27, 2025, Yusuf contracted to transport a load of steel from Alside Window Company Southwest, in Yuma, Arizona, for delivery in Reno, Nevada at 7:00 AM on August 29, 2025.
35. On August 28, 2025, Yusuf delivered the load of lumber to 84 Lumber, in Yuma, Arizona, the pre-arranged delivery location.
36. That same day, Yusuf drove to Alside Window Company Southwest, in Yuma, Arizona and her truck was loaded with approximately \$200,000 worth of merchandise at approximately 11:30 AM.
37. A little before noon, on August 28, 2025, Yusuf departed Alside Window Company Southwest with a load of steel, headed east on US Highway 8, before turning onto U.S. Route 95, north towards Reno.
38. At approximately 1:00 PM on August 28, 2025, Yusuf was stopped a U.S. Customs and Border Protection checkpoint.
39. CBP officers asked Yusuf if she was a U.S. citizen and she replied no. He then asked what her legal status was and she replied that she had a removal order but held deferred action under the Convention Against Torture. She

provided her work authorization document and a copy of the deferred action order from the immigration court.

40. After being provided with the documentation, CPB officers requested that Yusuf pull to the side of the road, and she did so. The officer then requested further documentation, including Yusuf's driver's license and her delivery manifests for the Yuma and Reno deliveries, which she provided.
41. Yusuf was then detained and called a company representative to inform them that someone would need to come pick up the truck or Customs and Border Protection would tow the vehicle and impound all property therein, including the \$200,000 shipment of steel window components.
42. The CBP officer indicated that Yusuf was being re-detained because "ICE had deemed her deportable" and that she would "see a judge tomorrow."
43. When Yusuf indicated that she had already seen a judge and asked if he had seen the order from the judge, the CBP officer said that he had, but that she would be detained, nonetheless.
44. On September 3, 2025, at approximately 10:30 AM, Yusuf was interviewed by two ICE officers in accordance with 8 C.F.R. § 241.13(h)(i)(3).
45. In that interview, Yusuf was informed that she was being detained solely because she had a final order of removal and because she was encountered at a checkpoint. No material changes since her release were identified.

46. Yusuf was provided with a notice of custody review, instructions regarding assistance in obtaining travel documents, and warnings regarding failure to depart. The notice of custody review indicates that a determination would be made on November 28, 2025, three months after her detention. *See* Ex. A; Ex. B; Ex. C.
47. The notice of custody review does not provide any factual basis identifying any change in circumstances whatsoever in order to justify her re-detention. *See* Ex. A.
48. Respondents have not suggested that Yusuf violated the terms of her supervised probation. *See* Ex. A.
49. Yusuf has no information that Respondents have secured a travel document to any third country, and she cannot be removed to Somalia, which is the country of designation for her removal order, as she has been granted Deferred Action under the Convention Against Torture. *See* Ex. A.
50. Respondents have not secured a travel document or proof of any third country is willing to receive Petitioner and grant her any legal status upon her arrival.
51. On September 7, 2025, the Department of Homeland Security published a photograph of Petitioner on their Facebook page, identifying her by name with the headline “ILLEGAL ALIEN, TRUCK DRIVER, CONVICTED

FELON” and “ARRESTED,” as well as the hashtag

“BorderSecurityIsNationalSecurity.” *See* Ex. D.

52. On September 9, Petitioner mailed a packet of evidence to Respondents and requested release pursuant to 8 C.F.R. § 241.13(h)(i)(3). *See* Ex. E.¹
53. On September 10, 2025, “C.Chicon” signed for and received Petitioner’s packet of evidence. *See* Ex. F.
54. On September 16, 2025, Respondents indicated that Petitioner would not be released based on the documents submitted.

LEGAL FRAMEWORK

55. As the constitution states, “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public Safety may require it.” U.S. Const. art. I, § 9 cl. 2.
56. “[W]hen an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the “removal period”).” 8 U.S.C. § 1231(a)(1)(A).
57. The removal period begins 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 a court orders a stay of the removal of the alien, the date of the court’s final order.

¹ Contentions 52, 53, and 54 were added after Petitioner signed the petition but reflect Counsel’s conduct in this case and have been similarly sworn to by counsel.

8 U.S.C. § 1231(a)(1)(B).

58. The removal period may be extended beyond a period of 90 days if the alien “fails or refuses to make timely application in good faith for travel or other documents necessary to [his] departure,” or otherwise fails to cooperate in the removal process. 8 U.S.C. § 1231(a)(1)(C).
59. However, “[a]n alien who: has been ordered removed; has been found under § 1208.16(c)(3) to be entitled to protection under the Convention Against Torture; and is subject to the provisions for mandatory denial of withholding of removal under § 1208.16(d)(2) or (d)(3), shall be granted deferral of removal to the country where he or she is more likely than not to be tortured.” 8 C.F.R. § 1208.17(a).
60. Notably, a “CAT order is not itself a final order of removal because it is not an order ‘concluding that the alien is deportable or ordering deportation.’” Nasrallah v. Barr, 590 U.S. 573, 582 (2020). As such, it has no impact on the 90 day detention clock under 8 U.S.C. § 1231(a)(1)(B).
61. “If the alien does not leave or is not removed within the removal period, the alien, pending removal, 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.”

8 U.S.C. § 1231(a)(3).

62. Importantly, “the statutes at issue permit detention only while removal remains reasonably foreseeable.” Nadarajah v. Gonzales, 443 F.3d 1069, 1078 (9th Cir. 2006).
63. “If the HQPDU determines at the conclusion of the review that there is no significant likelihood that the alien will be removed in the reasonably foreseeable future, despite the Service's and the alien's efforts to effect removal, then the HQPDU shall so advise the alien. Unless there are special circumstances justifying continued detention, the Service shall promptly make arrangements for the release of the alien subject to appropriate conditions, as provided in paragraph (h) of this section.” 8 C.F.R. § 241.13(g)(1).
64. The termination of release is also outlined by regulation and “[t]he Service may, in the exercise of its discretion, withdraw approval for release of any

alien under this section prior to release in order to effect removal in the reasonably foreseeable future or where the alien refuses to comply with the conditions of release.” 8 C.F.R. § 241.13(h)(4).

65. Furthermore, “[a]ny alien who has been released under an order of supervision under this section who violates any of the conditions of release may be returned to custody.” 8 C.F.R. § 241.13(h)(4)(i)(1).
66. “The Service may revoke an alien's release under this section and return the alien to custody if, **on account of changed circumstances**, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(h)(4)(i)(2) (emphasis added).
67. “Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision.” 8 C.F.R. § 241.13(h)(4)(i)(3).

68. As the full body of the Supreme Court has recognized, “[w]here detention is incident to removal, the detention cannot be justified as punishment nor can the confinement or its conditions be designed in order to punish.” Zadvydas, 533 U.S. at 721 (J. Kennedy, dissenting) (citing Wong Wing v. United States, 163 U.S. 228 (1896)). Id. at 694 (“punitive measures could not be imposed upon aliens ordered removed because ‘all persons within the territory of the United States are entitled to the protection’ of the Constitution.”) (citing Wong Wing, 163 U.S. at 238 (majority opinion).
69. The writ of habeas Corpus is the “fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action. Harris v. Nelson, 394 U.S. 286, 291 (1969).
70. “The scope and flexibility of the writ – its capacity to reach all manner of illegal detention – its ability to cut through barriers of form and procedural mazes – have always been emphasized and jealously guarded by courts and lawmakers.” Id.
71. Hence, “the very nature of the writ demands that it be administered with the initiative and flexibility essential to ensure the miscarriages of justice within its reach are surfaced and corrected.” Id.
72. Because of the vital role the writ plays in our democracy, and since the petitioner is often in custody, “usually handicapped in developing the

evidence needed to support in necessary detail the facts alleged in [a] petition,” the Supreme Court has repeatedly recognized that “a habeas corpus proceeding must not be allowed to flounder in a ‘procedural morass.’” Price v. Johnston, 334 U.S. 266, 269 (1948).

CAUSE OF ACTION

COUNT ONE: DETENTION AS STATUTORY VIOLATION OF 8 U.S.C. § 1231

73. Yusuf re-alleges and incorporates by reference each allegation.
74. Yusuf’s continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231.
75. The 90 day “removal period” has expired, Yusuf still has not been removed, her removal to Somalia is prohibited, no other removal is in any way foreseeable, yet Yusuf continues to languish in detention.
76. Yusuf has complied with the mandate of 8 U.S.C. § 1231(a)(3) since her release.
77. Yusuf’s removal to Somalia or any other country is not significantly likely to occur in the reasonably foreseeable future as she has been granted relief under the Convention Against Torture. The Ninth Circuit held in Nadarajah that ICE’s continued detention of someone like Yusuf under such circumstances is unlawful.

COUNT TWO: DETENTION AS REGULATORY VIOLATION OF 8 C.F.R.
§ 241.13

78. Yusuf re-alleges and incorporates by reference each allegation.
79. Under the applicable regulation “[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release.” 8 C.F.R. § 241.13(h)(4)(i)(3).
80. Viable reasons for the withdrawal of release relate to the “effect[uation of] removal in the reasonably foreseeable future or where the alien refuses to comply with the conditions of release.” 8 C.F.R. § 241.13(h)(4).
81. Respondents have not alleged that any changes justify the withdrawal of release relating to either removal in the reasonably foreseeable future or any refusal to comply with the conditions of her release.
82. Respondents have not complied with 8 C.F.R. § 241.13(h)(i)(4) as they have not provided a reason, consistent with the regulation, for the withdrawal of her release.
83. The burden to establish circumstances that make removal significantly likely in the reasonably foreseeable future belongs to Respondents. Respondents have not complied with its regulations. See Sarail A. v. Bondi, No. 25-cv-2144 (ECT/JFD), ECF No. 9 at 5 (D. Minn. June 17, 2025) (recommending habeas relief when ICE similarly provided a notice that only parroted the regulatory text); Mahamed Roble v. Bondi, No. 25-CV-3196 (LMP/LIB),

2025 WL 2443453, at *3 (D. Minn. Aug. 25, 2025) (granting habeas relief when ICE failed to provide notice of the changed circumstances that related particularly to Respondent).

84. Yusuf cannot be removed to Somalia. *See* 8 C.F.R. § 1208.17(a).
85. Respondents did not notify Petitioner that it designated an alternative country of removal consistent with 8 C.F.R. § 1240.12(d) and secured the necessary travel authorization for removal to a third country.
86. Respondents' failure also violates the mandate of Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954).
87. Respondents cannot prove that Petitioner's removal is reasonably foreseeable or imminent, and they have not pointed to a refusal to comply with the terms of her release, so Yusuf's ongoing detention is therefore unreasonable and a violation of 8 C.F.R. § 241.13.

COUNT THREE: DETENTION AS SUBSTANTIVE DUE PROCESS
VIOLATION OF THE FIFTH AMENDMENT

88. Yusuf re-alleges and incorporates by reference each allegation.
89. Yusuf's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

90. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest.
91. Such detention cannot be punitive in nature. *See Zadvydas*, 533 U.S. at 694; *Wong Wing*, 163 U.S. at 238.
92. While Respondents would have an interest in detaining Yusuf in order to effectuate removal, that interest does not justify the indefinite and arbitrary detention of Petitioner when Respondents are not significantly likely to remove Petitioner in the reasonably foreseeable future.
93. *Zadvydas*, 533 U.S. at 701; *Nadarajah*, 443 F.3d at 1084. recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal, and there is no such reasonable probability here.
94. Respondents' publication of Petitioner's photograph alongside denigrating comments suggest a punitive purpose, or perhaps some purpose related to public relations, but they are not purposes "reasonably necessary" to secure removal or ensure that Petitioner does not flee.
95. Yusuf has already been detained in excess of the removal period and Yusuf's removal is not significantly likely to occur in the reasonably foreseeable future.

96. This is a violation of the Fifth Amendment's Due Process Clause. *See Zadvydas*, 533 U.S. at 701; *Nadarajah*, 443 F.3d at 1084.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Kauser Mohamoud Yusuf, asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Order Respondents to show cause for their continued detention of Yusuf within three days pursuant to 28 U.S.C. § 2243.
3. Grant the writ of habeas corpus.
4. Order Petitioner's release from custody under an order of supervision or other condition as set by the Court.
5. Declare that Petitioner's detention beyond the 6-month period violates the Due Process Clause of the Fifth Amendment where travel arrangements have not been made.
6. Grant Yusuf reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).
7. Grant all further relief this Court deems just and proper.

DATED: September 17, 2025

Respectfully submitted,

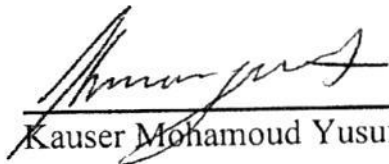
/s/ Cameron Giebink
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Attorney for Petitioner

**Verification by
Petitioner Pursuant to 28 U.S.C. § 2242**

I am submitting this verification because I am the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge.



Kauser Mohamoud Yusuf

Date: SEP 8th 2025

**Verification by
Petitioner's Counsel Pursuant to 28 U.S.C. § 2242**

I, Cameron Giebink, counsel for Petitioner, am submitting this verification because I submitted the evidentiary packet to Respondents on September 9, 2025, after Petitioner reviewed and signed this petition, and that no response has been forthcoming. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus to the best of my knowledge.



Cameron Giebink

9/16/2025

Date: