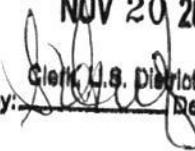


**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

FILED

NOV 20 2025

Clerk, U.S. District Court
By:  Deputy Clerk

YOHANA GABRIEL AMOM

PETITIONER.

CASE NO.25-3205-JWL

v.

C. CARTER, WARDEN, FCI-LEAVENWORTH

PAMELA BONDI, ATTORNEY GENERAL

KRISTI NOEM, SECERTARY, DEPARTMENT

OF HOMLAND SECURITY, AND SAMUEL OLSON

FIELD OFFICE DIRECTOR IMMIGRATION AND CUSTOMS

ENFORCEMENT, RESPONDENTS

2241 HABEAS CORPUS TREVES THERETO RESPONSE

Petitioner would respectfully like to request from the honorable court or ask the government that respondents "DO NOT" move [him] from the jurisdiction of this court during the duration of the consideration of this petition or that the initial filing for the habeas corpus relief is not destroyed by a transfer of the petitioner, and the accompanying custodial change regardless of where D.H.S may house petitioner in the future this court retains jurisdiction over his habeas petition.

In the habeas corpus petition that was filed on September 23, 2025 petitioner mentioned respondent's violated his due process clause of the Fifth Amendment and that he has been subject to unreasonable detention in violation of 1231(a)(6) The

Immigration Nationality Act (cat) by intending to deport the petitioner to a third country with respect to (South Sudan) which is war-torn, rife and flagrant with human right's abuses, without the fair chance to claim fear and that his detention is beyond the presumptively reasonable period of six-month's standard established by the supreme court under ZADVYDAS based on the tolling resulting from petitioner's final order on March 21, 2025 when the immigration judge issued a decision denying petitioner's application for relief and ordering him removed from the United States to Sudan ("Ask's the court to release him from detention")

statement's of fact's

Petitioner would first like to address the declaration of deportation officer Bradley W. McNary. In his declaration "McNary" stated that the following statements are true and correct to the best of his knowledge and that the statement's contained in his declaration are based upon "personal review" of available "electronic databases" and records kept by ICE and information provided to him by employee's at the Fci-Leavenworth which he's no longer detained at but is currently in ICE custody at chase county jail located in Cottonwood Falls, Kansas McNary also mentioned that he's provided with information by other ICE employee's in his course of official duties meaning he only report's what he's told by ICE agents.

In his declaration (5) McNary stated that ("petitioner is a native of South Sudan") which is false and petitioner can rebut that showing see. EXHIBIT G that is a "certificate Of Age" and the closest thing to a birth certificate that ties petitioner to his home country where he was born in the city of Khartoum which is the capital of the republic of the Sudan as it state's in the certificate "Not" South Sudan.

Respondents cannot seriously contest that the petitioner is a native and citizen of (South Sudan) without concert evidence (South Sudan) Embassy themself cannot contest that the petitioner is a native of (South Sudan) without show cause because the petitioner had left Sudan as a refugee to Damascas, Syria as child way before (South Sudan) became an independent country in 2011.

long before either country started their citizenship process, The (South Sudan) Nationality Act Of 2011 states that claiming citizenship in (South Sudan) is a complex task that is even more difficult for person's who have never lived there. A citizenship applicant must prove he belongs to an ethnic community by securing the recommendation of his traditional Tribble leader and by verifying his identity with a next-of-kin witness who should be an elder for applicants who's have never lived in (South Sudan) these requirements can be challenging sometimes outright impossible to meet especially the Nuer tribe like the petitioner who are from refugee camps are seen with suspicion at the citizenship office "Almost Nobody" in (South Sudan) or people in

the neighboring refugee camp's possess birth certificate's or any material evidence of their identity over 3.4 million people that were unaccounted for left Sudan during the civil war all undocumented these are fact's from the country report's.

Therefore the republic of (Sudan) can contest that the petitioner is not a citizen of (Sudan) due to undocumented refugees' that fled the civil war but respondent's cannot claim that the petitioner is a native of (South Sudan) without concert evidence just because (South Sudan) issued a travel document doesn't make him a citizen, petitioner does have the features of a South Sudanese but has no ties' or relative's with respect to (South Sudan) you can't judge a book by its cover just for the record petitioner is not petitioning for his birth place just seeking release.

Mr. McNary in his declaration also stated that on or about April 7, 2025 petitioner filed an appeal of the immigration judge decision with the B.I.A and also on or about June 16, 2025 petitioner sent a letter to the B.I.A asking that his appeal of the immigration judge decision on March 21, 2025 be withdrawn which is true petitioner confirms. McNary's statements of fact's by the respondent's also claim that ("Given petitioner's request the B.I.A issued a decision on July 8, 2025 recognizing the withdrawal of the appeal and returning the record for further action and that the decision rendered the immigration court's order final") meaning whatever the decision was on march 21, 2025 that the immigration judge made became final on that day because of the withdraw. see EXHIBIT H 4.11- withdrawing an appeal (c) Effect of withdraw.

When an appeal is withdrawn, the decision of the immigration judge becomes immediately final and binding as if no appeal had ever been filed, and the alien is then subject to the immigration judge's original decision. see 8 C.F.R section 1003.4 thus. If the alien appeals an immigration judges order of removal or deportation, and then withdraws the appeal, the DHS may at that point, remove or deport the alien. Regardless of what the respondent's and deportation officer claim's were about the petitioner's final order is false and has been rebutted.

Petitioner's order became final on March 21, 2025 when the withdraw was recognized on July 8, 2025 it does not change the circumstances of his final order therefor respondent's claim of premature filing by the petitioner should be rejected because petitioner has established his claim under ZADVYDAS and that his detention is well beyond the presumptively reasonable six-month's authorized. Respondents are wrong there claim of petitioner's final order of July 8, deems his six-month's will not have passed until January 8, 2026 is false there argument of premature should be rejected and grant the petitioner his claim's under ZADVYDAS framework.

Petitioner would also like to apologize to the courts of any misunderstanding of petitioner's claims of (incorrectly asserting that the immigration court order became final

on April 19) only because originally before the petitioner filed for his appeal to be withdrawn, the B.I.A on May 27, 2025 had rejected his appeal and that rejection rendered the immigration judge decision final as well. The conclusion of that rejection was explained to the petitioner by ICE agent respondent's own employee mentioned that ("If you appeal and the board rejects your appeal the decision becomes final as if no appeal was filed") but petitioner was not aware of that until recently. In his declaration McNary mis-interpreted or misunderstood himself what the Act pursuant to 8 C.F.R section 1241.1(a) say's an order of removal made by the immigration judge at the conclusion of proceedings shall become final upon dismissal. key word "DISMISSAL" petitioner's appeal was not dismissed by the board his appeal was withdrawn and upon that the board rejected his brief on May 27, 2025 and to rebut that showing the Act pursuant to 8 C.F.R section 1003.4 assures the courts of all claim's.

Declaration statement (24) McNary stated that ("on or about June 27, 2025 petitioner was interviewed in order to obtain a travel document from Sudan"). Just for the record petitioner would like to explain and point out to the court's that if respondent's were to claim that petitioner's final order didn't take effect until July 8, which was clarified that it wasn't, respondents would be in a violation of due process to have conducted that interview because respondent's hadn't received a final order yet as they claimed. Why would they start effecting removal, without a final order that is a violation of petitioner's Fifth Amendment due process clause and a violation of 1231(a)(6) because the petitioner would not have been in the removal period at that point, Declaration (28) deportation officer mentioned that ("on September 5, 2025 petitioner sought to challenge his removal to South Sudan") which is false because there's nothing in the records that states or shows that petitioner filed a motion or some sort with the B.I.A at the time challenging his removal to (South Sudan) respondent's cannot rebut that. In their response to the habeas petition respondents claimed that ("on or about September 5, 2025 petitioner sought to challenge his removal to South Sudan") he alleges he received verbal notice, rather than written notice of his removal to (South Sudan).

Respondent's argument claim's should be rejected as insufficient because if petitioner wished or was to challenge his removal petitioner would of have filed a motion with the B.I.A or better yet not have withdrawn his appeal, just to assure the courts' petitioner understands that this court lack's subject matter jurisdiction to adjudicate any claims of challenging deportation which petitioner is not seeking but only relief from detention. and just for the record when petitioner made comments about receiving verbal notice it was not a challenge, but his right's petitioner is entitled to a notice and the opportunity to present fear-based claim it is procedural due process. See D.V.D U.S Dept. of Homeland Sec, 778 F. Supp. 3d 355 (D.mass. 2025) prior to removing any alien to a third country any country "NOT" explicitly provided for on the alien's order of removal respondents or defendants must (1) provide written notice (2) provide meaningful

opportunity (3) move to reopen the proceeding's if the alien demonstrates "reasonable fear' or (4) if not found to demonstrate reasonable fear provide opportunity to reopen proceeding's. But petitioner is not challenging because there's nothing with the B.I.A pending momentarily respondent's claims of challenging are nothing more than mere allegations and should be rejected.

ARGUMENT'S

petitioner would humbly like to ask the court's to grant his habeas petition and order respondent's to release him from his unlawful detention under 8 U.S.C section 1231(a)(6) and ZADVYDAS V. DAVIS, 533 U.S 678(2001) on the grounds that there is no likelihood of removal in the foreseeable future and under the procedural components of the due process clause of the Fifth Amendment which has been violated. Petitioner would like to rebut respondent's claims of petition being premature on the account of his ZADVYDAS claim's because petitioner received his final order on March 21, 2025 when the immigration judge ordered him deported and removed to Sudan petitioner has now been in custody for over 180 day's passed the six month's period that was authorized, approximately 238 day's as of his "TREVES THERETO RESPONSE" that the court's granted him for Nov 24, 2025 and immigration officials have not yet made a determination on his 180-day post custody review that has not been conducted, applicable regulations require such a determination to be made as soon as practicable after the expiration of the 90-day removal period and as soon as possible after a review but, respondents have failed to comply with their own regulation's.

Their only argument is claiming that the petition is premature on claims of (being asserted, too soon because petitioner's removal order wasn't final until July 8, 2025 and six-month's will not have passed from the date until January 8, 2026 because of a letter of withdraw that wasn't recognized by the B.I.A until July 8) which is false because, respondents have. the provision's pursuant to 8 C.F.R section 1241.1(a) confused with the Provision's pursuant to 8 C.F.R section 1003.4 and 1241.1(a) discusses matter's based on dismissal of an appeal by the B.I.A (the immigration judge at the conclusion of proceeding's shall become final upon dismissal). Petitioner's appeal wasn't dismissed petitioner withdraw from it and pursuant to 8 C.F.R section 1003.4 state's withdraw matter's thus (when an appeal is withdrawn, the decision of the immigration judge becomes immediately final and binding as if no appeal had ever been filed). See EXHIBIT H it even state's it's self on respondent's habeas response SEE. supra statements of facts(SOF) and the declaration of deportation officer McNary acknowledges that recognizing the "WITHDRAW" of the appeal petitioner's appeal was never dismissed it was withdrawn and upon that petitioner's appeal was rejected before he filed to withdraw his appeal and that made his order final on March 21, 2025

Respondent's argument's about premature claims should be dismissed or rejected because their errors are on respondents own lack of communication respondents are misleading the court's because if they have not received a final order there would be no reason to commence review's or continue detention petitioner would have not been in the removal period, it would be a violation of due process. See EXHIBIT B is a form I-229(a) that states the petitioner has a final order EXHIBIT E 1-3 is also a confirmation that he's had a final order because they continued his detention beyond the 90-day removal period and you can only continue detention when you are under 1231(a)(6) when an alien proceeding is pending ICE cannot proceed with removal step's, conduct review's if an alien hasn't received a final order EXHIBIT E-1 is the decision when they continued detention EXHIBIT E-2 is the paper when decision was served and EXHIBIT E-3 is the paper and signature of the person who authorized continued detention.

Respondents are also in a major violation because their continued decision is dated July 8, 2025 petitioner obtained his removal order March 21, 2025 8 C.F.R 241.4(a) state's that if a continued detention is served late it does not take effect it must be conducted and served before "NOT" after the 90-day, the 90-day removal period ended, when they served petitioner with it 2 week's late his first 90-day ended in June 19, 2025 and his post removal 90-day ended in September 17, 2025 and respondent's only served one late continued detention decision it's been over 180-day's and have not conducted any other review respondents we're spouse to serve petitioner with another continued detention after September 17 but yet again they are in violation still with no continued detention their so called failure to comply would not continue detention until December 16, 2025 when his next 90-day take effect petitioner proved himself of a final order an respondent's only confirmed that they violated petitioner's due process by continuing his detention late. See EXHIBIT E 1-3.

Petitioner should be granted immediate release because the burden is not on the petitioner respondents violated his process, they continued his detention late and served his notice late. See EXHIBIT C the notice read July 20, 2025 and his continued detention petitioner had proof of final order it's not the petitioner's job to make sure respondent's keep up with their responsibility when conducting an aliens removal it's their own lack or professionalism respondent's violated petitioner's custody process by continuing his detention late and without conducting his first 90-day custody review, respondents decision to continue stated that ("his continued detention was based on a review of information that was submitted by the petitioner on July 8, 2025") See. EXHIBIT E-1 petitioner has never submitted any information by failing to afford petitioner the required custody review and continuing his detention after the 90-day period, respondents have failed to provide petitioner with the procedural safeguard's contained in the regulation's implementing 8 U.S.C section 1231(a)(6) respondent's cannot constitutionally detain petitioner without complying with these safeguard's

regardless of whether petitioner qualifies for release or not, the determination required by ZADVYDAS cannot be made if respondent's fail to conduct hearing's to make such determination and fail to provide alien's with the procedure's due to them under regulation's, petitioner's detention violates his procedural due process rights under the constitution of the UNITED STATES.

Detention may not be justified on the basis that removal to a particular country is likely to occur at some point in the future respondents have not submitted evidence specific to petitioner's case or correspondence from official's indicating that they are moving swiftly or provided reason's that appear to be resolved or reasonable or a well-supported estimated date by when repatriation is expected to occur the delay is on respondent's own recognizance because petitioner was told that he would be placed on a charter flight for deportation on October 3, 2025 when he was picked up by ICE agent's from Leavenworth federal correction's "NO" interview took place on October 3rd there's nothing threw out the whole removal process that state's an interview must be conducted before removal (" if the petitioner has been already order removed and a flight has been scheduled what more is there to discuss), and ICE cannot tell an alien or advise them of the day they will board because it is security and a safety matter respondents are not even sure of how to tell the court's if they actually took petitioner to the airport and took the effort's, or if he actually did refuse to board respondent's in their response stated that the petitioner (" refused to board on his removal date") when his removal date wasn't until October 5, 2025 as they stated in the notice and in their response they stated on October 3, petitioner was given a failure to comply for refusing to board which one is it. because if they escorted petitioner to the aircraft and he refused to board his failure to comply date would be October 5, not October 3rd and they've already told petitioner that he would be on a charter flight petitioner never refused to board. And "IF" or "when" an alien "refuses" to board respondents haven't even stated what would be the next step to take all they stated in their response is that " ICE will continue its efforts to effectuated petitioners' removal but have not justified HOW or WHEN.

There's "No" removal in the likelihood in the foreseeable future respondent's already stated in their response and declaration that the travel document is vailed for a limited time, it's only vailed until November 7, 2025 and it's beyond that with No update's on charter flight to when, No travel document because the previous one expired and because No travel document to when they will obtain one they can't put him on board without one what is the next procedure, How is ICE continuing to effectuate his removal 'NOW'. His original removal designation to Sudan advised them that petitioner is not their citizen so No removal to Sudan, they claimed he was scheduled for removal to South Sudan but did not even take the efforts to accompany him, but stated that he refused to board. Just for the record it makes absolutely No sense "to put someone out

of your house and still give them the option to leave or not"). respondents have not rebutted anything but cited cases that doesn't pertain to the petitioner all they have done is deliberately continue to make error's that they probably consider harmless but these so called deviation they are using to divert the courts are effecting petitioner and petitioner's in all other case's filed against respondent's constitutional rights are being violated by respondent's who are not effecting the corrective procedure's to revoke or continue detention of petitioner's in custody, depriving them of their human liberty is a serious constitutional problem arising out of a statute that doesn't permit indefinite detention or violating due process, respondent's can't even comply with their own extensive procedures.

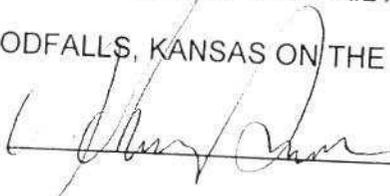
Petitioner remains' detained more than 7 month's since his removal order became final a significant period beyond the presumptively reasonable period of six-month's respondents have not been able to provide evidence or even point to any specific fact that creates SIGNIFICANT LIKELIHOOD THAT OFFICIAL'S HAVE TAKEN NO affirmative step's to remove petitioner.

PETITIONER'S DETENTION HAS BECOME UNREASONABLY INDEFINITE AND THE COURT'S THEREFORE SHOULD RELEASE THE SUBJECT TO APPROPRIATE TERM'S OF SUPERVISION.

CERTIFICAT OF SERVICE

I, YOHANA GABRIEL AMOM, HERBY DECLARE UNDER PENALTY OF PERJURY
THAT I PUT THE PETITION IN THE MAIL AT CHASE COUNTY JAIL IN
COTTONWOODFALLS, KANSAS ON THE DATE of 11-8-25

SIGNATURE



YOHANA GABRIEL AMOM 

A 



BRADEN RAYBURN
State of Kansas
My Appt. Exp. 1-26-28

CHASE COUNTY DETENTION CENTER

P.O. BOX 639

COTTONWOODFALLS, KANSAS

