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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ARTUR TCHIBASSA,

Petitioner,

v.

Jimmy Johnson, Facility Administrator,
Prairieland Detention Center; Josh Johnson, Acting
Director of Dallas Field Office, U.S. Immigration
and Customs Enforcement and Removal
Operations; Marcos Charles, Acting Executive
Associate Director, ICE Enforcement and Removal
Operations; Kristi Noem, Secretary of the U.S.
Department of Homeland Security; and Pamela
Bondi, Attorney General of the United States,
in their official capacities,

Respondents.

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS
ORAL ARGUMENT
REQUESTED**

INTRODUCTION

1. Respondents have held Petitioner, Artur Tchibassa, in the Prairieland Detention Center from April 2023. For the year-and-a-half until the Board of Immigration Appeals (BIA) issued its administratively final order of removal on December 20, 2024, 8 U.S.C. § 1226(c) compelled Respondents to detain Mr. Tchibassa as an alien inadmissible on account of his 2003 convictions for hostage-taking and conspiracy to take hostages; these convictions indisputably rendered him inadmissible under 8 U.S.C. 1182(a)(2)(i)(I), subjecting him to mandatory detention under 8 U.S.C. § 1226(c).

2. After the BIA issued an administratively final decision simultaneously ordering Petitioner's removal and *deferring* it under the Convention Against Torture, 8 U.S.C. § 2131(a)(1)(A) authorized Respondents to detain Mr. Tchibassa for a 90-day statutory removal period. Regulations promulgated to conform to *Zadvydas v. Davis*, 533 U.S. 678 (2001) permitted Defendants to detain Mr. Tchibassa an additional three months. 8 C.F.R. § 241.4(k)(1)(ii). These regulations provide that, thereafter, an "initial HQPDU review will ordinarily be conducted at the expiration of the three-month period after the 90-day review or as soon thereafter as practicable." 8 C.F.R. § 241.4(k)(2). That "practicable" period having expired, Respondents could only justify Mr. Tchibassa's continued detention "if such detainee's prompt removal is practicable and proper, or for other good cause." 8 C.F.R. § 241.4(k)(3). As explained below, removing Mr. Tchibassa to any country is "practicable" only to the extent that it is also *illegal*. This Court should therefore grant the instant petition for a writ of habeas corpus and order Mr. Tchibassa's release.

JURISDICTION

3. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

5. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

6. Venue is proper because Petitioner is detained at the Prarieland Detention Center in Alvarado, Texas, which is within the jurisdiction of this District.

7. Venue is proper in this District, moreover, because Respondents are officers, employees, or agencies of the United States; and Respondents Jimmy Johnson and Josh Johnson work in this District; a substantial part of the events or omissions giving rise to her claims occurred in this District; Mr. Tchibassa resides in this District; and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

10. Petitioner is the recipient of an administratively final order of deferral of removal, and is in the custody, and under the direct control, of Respondents and their agents.

11. Respondent Jimmy Johnson is the Facility Administrator of the Praireland Detention

Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

12. Respondent Josh Johnson is sued in his official capacity as the Acting Director of the Dallas Field Office of U.S. Immigration and Customs Enforcement. Respondent Josh Johnson is a legal custodian of Petitioner and has authority to release him.

13. Marcos Charles is sued in his official capacity as the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He directs the Headquarters Post-Order Detention Unit (HQPDU), which is charged with determining whether there is a significant likelihood of removing Petitioner in the reasonably foreseeable future.

14. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Kristi Noem is a legal custodian of Petitioner.

15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Kristi Noem is a legal custodian of Petitioner.

STATEMENT OF FACTS

16. Petitioner is a 70-year-old citizen of Angola who was extradited to the U.S. in 2002 to face criminal charges relating to the kidnapping of the U.S. citizen Brent Swan in 1990. Mr.

Tchibassa had served as the spokesperson and chief negotiator for the Front for the Liberation of the Enclave of Cabinda (FLEC) after that insurgent organization had abducted Mr. Swan.

Finding that Mr. Tchibassa had been “a high-ranking member of FLEC and a willing participant in Swan's abduction, detention and ransoming,” a jury convicted Mr. Tchibassa of “conspiring to commit hostage-taking in violation of 18 U.S.C. §§ 371 and 1203 and (2) hostage-taking in violation of 18 U.S.C. §§ 2 and 1203.” *United States v. Tchibassa*, 371 U.S. App. D.C. 543, 545, 452 F.3d 918, 921 (2006).

17. Mr. Tchibassa’s exemplary disciplinary record and occasional role in reducing interfaith tensions among prisoners persuaded prison officials to move him, in an exceptionally short timeframe, out of segregation in a maximum-security status at the United States Penitentiary, Terre Haute, Indiana. A few years later, his continued good conduct prompted another transfer, this time to a low-security prison, FCI La Tuna, near El Paso, Texas.

18. In 2009, Mr. Tchibassa was diagnosed with Parkinson’s Disease. Over the years that followed, his gait became a shuffle. Later, he required a walker to move about. He now needs for someone to push him in a wheel chair. Mr. Tchibassa was consequently transferred for periods of time to BOP medical prisons. A diagnosis of prostate cancer in 2014 prompted his transfer, first, to the federal medical center at Butneer, North Caralina, then to the Federal Medical Center, Fort Worth, Texas. It was from the Fort Worth facility that he was transferred to DHS custody in April 2023.

17. While in DHS custody, Mr. Tchibassa asked the Dallas Immigration Court to forbid his return to Angola under 8 C.F.R. § 1208.17(a) because, he asserted, he was “more likely than not to be tortured.” The immigration judge (IJ) initially denied this relief. On remand from the Board of Immigration Appeals, however, the IJ found that “Respondent has met his burden of

establishing it is ‘more likely than not’ that he will be tortured by the government of Angola for his support of Cabindan independence.” and granted deferral of removal. **Exhibit 1.**

18. On March 12, 11 days before Mr. Tchibassa’s 90-day custody review, DHS violated 8 C.F.R. § 241.4(h)(2) by issuing a decision extending his detention before receiving from him any “information in writing in support of his... release.” **Exhibit 2.** As the next custody review approached, Mr. Tchibassa requested release. **Exhibit 3.** The Headquarters Post-Order Detention Unit (HQPDU), which is charged with determining whether there is a significant likelihood of removing Petitioner in the reasonably foreseeable future, has been silent since.

19. Since 8 C.F.R. § 1208.17(a) forbids Respondents from removing Mr. Tchibassa to Angola, the one country of which he is a citizen, his removal is “reasonably foreseeable” only if DHS intends to send him elsewhere. He has asserted, via certified mail, a fear of torture in Honduras and El Salvador (**Exhibit 4**); virtually every other nation outside western Europe (**Exhibit 5**); and, for emphasis, Ghana (**Exhibit 6**). Should DHS intend to deport Tchibassa to any of these 173 countries, it may do so only after notifying Mr. Tchibassa of that intention; notify the ICE Office of the Principal Legal Advisor so that it can move to reopen removal proceedings to designate a new country of removal and allow Mr. Tchibassa to present his fear-based claim to an immigration judge; and stay Mr. Tchibassa’s removal until his fear-based claim is adjudicated by an immigration judge.

20. Respondents’ failure to comply with these obligations before enforcing the December 20, 2024 order of removal would violate Mr. Tchibassa’s statutory, regulatory, and due process rights, and the United States’ commitment to non-refoulement under international law. *See* Immigration and Nationality Act § 241(b)(3); Due Process Clause of the Fifth Amendment; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105–277, div. G, tit. XXII, §

2242(a), 112 Stat. 2681, 2681–822 (1998) (codified at Note to 8 U.S.C. § 1231); see also 8 C.F.R. § 1240.10(f); 8 C.F.R. § 1240.11(c)(1)(i).

LEGAL FRAMEWORK

21. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).

22. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

23. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

24. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court’s

final order”; or “[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.”

25. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

26. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen’s due process right to liberty. 533 U.S. at 701. In this circumstance, if the noncitizen “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.*

27. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any

other justification.

28. The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive detention based on dangerousness” is permitted “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

29. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If removal is reasonably foreseeable, “the habeas court should consider the risk of the [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.

30. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that “Congress previously doubted the constitutionality of detention for more than six months” and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

31. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

32. Petitioner has been detained by Respondents for six months beyond the statutory 90-day removal period.

33. Petitioner’s removal order became administratively final on December 20, 2024. The removal period began on that day and expired March 20, 2025.

34. Petitioner’s prolonged detention is not likely to end in the reasonably foreseeable future. (See above, paragraphs 19-20.) Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and thus violates due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

35. For these reasons, Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1231(a)

36. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention “beyond the removal period” only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 (“[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.”). Because Petitioner’s removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a), and 8 C.F.R. § 241.4(k)(3);
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

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Counsel for Petitioner

Dated: September 22, 2025

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

I represent Petitioner, Artur Tchibassa, 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 22nd day of September 2025.

/s/ Paul S. Zoltan
Paul S. Zoltan