

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

Kujtim Sadik Beciraj,

**25-3819**

Petitioner,

v.

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

Department of Homeland Security,

**VERIFIED PETITION FOR  
WRIT OF HABEAS CORPUS**

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

Immigration and Customs Enforcement,

Sam Olson, Director, St. Paul Field Office  
Immigration and Customs Enforcement,

and,

Eric Tollefson, Sheriff of Kandiyohi  
County.

Respondents.

**INTRODUCTION**

1. Petitioner, Kujtim Sadik Beciraj (“Petitioner”), was born in Bosnia but is not recognized as a citizen of that country or any other country.

2. Respondents are detaining Petitioner who is subject to a final order of removal, dated January 2, 2025.
3. Petitioner's order of removal became administratively final on around January 15, 2025, when he waived his right to appeal.
4. Petitioner has been held in Respondents custody for more than two years, starting on September 11, 2023, eight months of which has postdated his final order of removal.
5. Respondents have sought travel documents from Bosnia, Kosovo, Serbia, and Montenegro, but have been unsuccessful in obtaining them as all four countries have denied requests.
6. The prolonged post-removal order detention, which has now totaled more than six months, violates the Due Process Clause of the United States Constitution.
7. The continued detention of Petitioner serves no legitimate purpose.
8. To remedy this unlawful detention, Petitioner seeks declaratory and injunctive relief in the form of immediate release from detention.
9. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations

of U.S. Customs and Immigration's ("ICE") Fort Snelling, Minnesota of the Office of Enforcement and Removal Operations in the State of Minnesota.

10. Petitioner requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hour notice prior to any removal or movement of him away from the State of Minnesota.
11. Petitioner requests that the Court order that, pending this petition, Petitioner be provided due process prior to any removal to any allegedly safe third country in the form of an opportunity to assert a credible fear of that country and, should such a fear exist, receive a full merits hearing for withholding of removal and DCAT before an immigration judge, should such a third country be identified and such a credible fear exist.

### **JURISDICTION AND VENUE**

12. 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 United States 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.

13. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court. *See Zadvydas, v. Davis*, 533 U.S. 678 (2001).
14. 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*, 583 U.S. 281, 290-94 (2018); *Nielsen v. Preap*, 586 U.S. 392, 399, 399-401 (2019)
15. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within this District. He is currently detained at the Kandiyohi County Jail, in Willmar, Minnesota. 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**

16. Petitioner is was born in an underground bunker in Bosnia during the civil war that ruled that country until the end of 1995. As such, Petitioner has no record of birth and is not recognized as a citizen of that, or any other country. He is stateless. Petitioner is currently in Immigration and Customs Enforcement (“ICE”) custody at the Kandiyohi County Jail, in Willmar, Minnesota.

17. 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 Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Petitioner's detention. As such, Respondent Noem is a legal custodian of Petitioner.
18. 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 Petitioner. As such, DHS is a legal custodian of Petitioner.
19. 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 Petitioner.
20. 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 Petitioner.

21. Respondent Sam Olson is being sued in his official capacity as the 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 Petitioner. 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 Petitioner's detention in Minnesota. As such, Respondent Olson is a legal custodian of Petitioner.
22. Respondent Sheriff Eric Tollefson is being sued in his official capacity as the Sheriff responsible for the Kandiyohi County Jail Services. Because Petitioner is detained in the Kandiyohi County Jail, Respondent has immediate day-to-day control over Petitioner. As such, Respondent Tollefson is a legal custodian of Petitioner.


### **EXHAUSTION**

23. A final order of removal has been entered against Petitioner and Petitioner has exhausted his administrative remedies such that judicial action is his only remedy.
24. Notably, 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).

25. Furthermore, prudential “[e]xhaustion is not required when the issue presented to the court ... involves purely legal issues.” Trinity Indus. v. Reich, 901 F. Supp. 282, 286 (E.D. Ark. 1993), aff’d, 33 F.3d 942 (8th Cir. 1994) (citing Bethlehem Steel v. E.P.A., 669 F.2d 903, 907 (3rd Cir.1982)).
26. This is a purely legal issue relating to prolonged detention under the Fifth Amendment.
27. “Further, exhaustion is not required when the nonjudicial remedy is clearly shown to be inadequate to prevent irreparable injury.” Id. (citing Miss America Organization v. Mattel, 945 F.2d 536, 545 (2nd Cir.1991)).
28. Unlawful, going on indefinite, detention is clearly an irreparable injury given that “a loss of liberty ... is perhaps the best example of irreparable harm.” Matacua v. Frank, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018).  
“Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause.” Zadvydas v. Davis, 533 U.S. 678, 679 (2001).
29. “In addition, exhaustion is not required where administrative proceedings involve questions of significant national interest or where the agency has clearly violated rights secured by the Constitution, statutes, or administrative regulations.” Trinity Indus., 901 F. Supp. at 286 (citing Philip Morris v. Block, 755 F.2d 368, 370 (4th Cir.1985)).

30. Respondents have now detained Mr. Petitioner beyond the 6 months after his final order of removal, which is presumptively unreasonable. *See Zadvydas*, 533 U.S. at 701.
31. Nevertheless, Petitioner has indeed exhausted his administrative remedies by seeking custody redetermination at the end of his 90-day mandatory detention period, as well as at the expiration of 6 months of detention.

**FACTUAL ALLEGATIONS & PROCEDURAL HISTORY**

32. Petitioner was born in Bosnia on  but he is stateless as he was born in an underground bunker during that country's brutal civil war. Ex. B, at 4; Ex. F.
33. On March 24, 1997, Petitioner entered the United States at the age of one as a refugee. Ex. B, at 4.
34. May 19, 2000, Petitioner became a lawfully permanent resident. Ex. B, at 4.
35. Between 2015 and 2022, Petitioner married, fathered and raised three biological children and a stepchild, and worked as a welder and in construction in Fargo, North Dakota. Ex. B, at 4.
36. On March 17, 2022, Petitioner pled guilty to child neglect under N.D.C.C. § 14-09-22.1(1) (2022). Ex. B, at 5.
37. On January 9, 2023, Petitioner was convicted of theft of more than \$100 under N.D.C.C. § 12.1-23-02(1) (2023). Ex. B, at 6.

38. On September 7, 2023, the Department of Homeland Security initiated removal proceedings against Petitioner, alleging that he was deportable under 8 U.S.C. § 1227(a)(2)(B)(i) and 8 U.S.C. § 1227(a)(2)(E)(i) for drug offenses and a crime of child neglect. Ex. B, at 1.
39. On September 11, 2023, Respondent's took Petitioner into custody at the Kandiyohi County Jail.
40. On September 14, 2023, Petitioner was convicted of two counts of bail jumping under N.D.C.C. § 12.1-08-05(1) (2023). Ex. B, at 6.
41. On November 14, 2025, the Department of Homeland Security amended its charging documents to include charges under 8 U.S.C. § 1227(a)(2)(A)(ii) for multiple crimes involving moral turpitude, 8 U.S.C. § 1227(a)(2)(A)(iii) for aggravated felony offenses of theft offense with a term of imprisonment of one year or more and an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed. Ex. B, at 1.
42. On January 24, 2024, an Immigration Judge sustained the aggravated felony charges related to the theft and failure to appear charges and dismissed the child neglect and multiple crime involving moral turpitude charges. Ex. B, at 1.

43. On February 7, 2024, Petitioner applied for withholding of removal relief under 8 U.S.C. § 1231(b)(3)(A) and convention against torture under 8 C.F.R. § 1208.17(a). Ex. B, at 2.
44. On March 14, 2024, Petitioner filed a self-petition under the Violence Against Women act as the victim of domestic violence. Ex. D.
45. April 8, 2024, an immigration judge found Petitioner ineligible for withholding of removal due to his criminal history and denied his request for convention against torture relief. Ex. B, at 2.
46. On May 22, 2024, the Department of Homeland Security confirmed that Petitioner had “establish[ed] a prima facia case for classification under the self-petitioning provisions of the Violence Against Women Act.” Ex. E.
47. Petitioner appealed the denial of relief and the Board of Immigration Appeals affirmed the CAT denial but reverse the Immigration Judge’s decision as to eligibility for withholding of removal. Ex. B, at 2.
48. On January 2, 2025, Petitioner’s application for withholding of removal was denied and he was ordered deported to Bosnia. Ex. B, at 21.
49. On January 11, 2025, Petitioner waived appeal, and his removal order became administratively final. Ex. C.

50. In April 2025, Respondents conducted a custody review at the end of the 90-day “removal period” described at 8 U.S.C. § 1231(a)(1)(A). Respondents opted to hold him.
51. In early March of 2025, Petitioner was informed by Respondents that the Bosnian government rejected their application for Petitioner’s travel authorization to that country.
52. In early March of 2025, Petitioner signed an application for travel authorization to Montenegro.
53. In May of 2025, Petitioner was informed that the Montenegrin government refused to issue a travel document for him.
54. In May of 2025, Petitioner was informed that the Serbian government refused to issue a travel document for him.
55. In May of 2025, Petitioner signed an application for travel authorization to Kosovo.
56. In July of 2025, Petitioner learned that the Kosovar government refused to issue a travel document for Petitioner.
57. On or around June 29, 2025, Petitioner sat with ICE officials for a pre-release interview, and he answered questions about his family support, address, and employment history.

58. On July 15, Petitioner received a letter stating that his custody and release determination would be made by ICE headquarters in Washington DC, which would render a decision.
59. On August 25, 2025, Respondents issued a letter stating that the decision to continue Petitioner's detention had been made because "ICE [was] currently working with the Department of State and Department of Homeland Security to secure a travel document for [his] removal from the United States. A travel document [was] expected, and ICE ha[d] reason to believe there's a significant likelihood that your removal will occur in the reasonably foreseeable future, therefore, you are to remain in ICE custody at this time, as ICE is unable to conclude that the factors set forth at 8 C.F.R. § 241.4(e) have been satisfied." Ex. A. at 1.
60. Respondent remains detained at the Kandiyohi County jail in Willmar, Minnesota well beyond the presumably constitutional 6-month period of detention described in Zadvydas v. Davis, 533 U.S. 678, 679 (2001).

### **LEGAL FRAMEWORK**

61. 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.

62. Such a writ is available to a person who “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).
63. “There is no higher duty of a court, under our constitutional system, than the careful processing and adjudication of petitions for writs of habeas corpus, for it is in such proceedings that a person in custody charges that error, neglect, or evil purpose has resulted in his unlawful confinement and that he is deprived of his freedom contrary to law.” Harris v. Nelson, 394 U.S. 286, 291-22 (1969).
64. “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. at 291.
65. “[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).
66. 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.

- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

8 U.S.C. § 1231(a)(1)(B).

67. An “‘order of deportation’ means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.” 8 U.S.C. § 1011(a)(47)(A).

68. Such an order “shall become final upon the earlier of—

- (i) a determination by the Board of Immigration Appeals affirming such order; or
- (ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.

8 U.S.C. § 1011(a)(47).

69. 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).

70. “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).

71. The Due Process Clause of the Fifth Amendment requires that “[n]o person shall... be deprived of liberty... without due process of law.” U.S. Const. amend. 5.
72. It is well-established that the Fifth Amendment entitled aliens to due process of Law[.]” Demore v. Kim, 528 U.S. 510, 523 (2003) (quoting Reno v. Flores, 507 U.S. 292, 306 (1993)).
73. “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).
74. Due process therefore requires “adequate procedural protections” to ensure that the government’s asserted justification for its conduct infringing on

protected interests ‘outweighs the individual’s constitutionally protected interest in avoiding physical restraint.’” Id. (citing Kansas v. Hendricks, 521 U.S. 346, 356 (1997)).

75. As such, “Congress previously doubted the constitutionality of detention for more than six months.” Zadvydas, 533 U.S. at 701 (2001).
76. “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.
77. “[A]s the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” Zadvydas, 533 U.S. at 701.
78. Courts in Minnesota “have found no significant likelihood of removal in five types of cases: (1) where the detainee is stateless and no country will accept him; (2) where the detainee's country of origin refuses to issue a travel document; (3) where there is no repatriation agreement between the detainee's native country and the United States; (4) where political conditions in the country of origin render removal virtually impossible; and (5) where a foreign country's delay in issuing travel documents is so extraordinarily long that the delay itself warrants an inference that the

documents will likely never issue.” Ahmed v. Brott, 2015 WL 1542131, at \*4 (D. Minn. Mar. 17, 2015)

79. In *Zadvydas*, “Germany told the INS that it would not accept Zadvydas because he was not a German citizen. Shortly thereafter, Lithuania refused to accept Zadvydas because he was neither a Lithuanian citizen nor a permanent resident. In 1996, the INS asked the Dominican Republic (Zadvydas' wife's country) to accept him, but this effort proved unsuccessful.” 533 U.S. at 684.
80. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. Id.; Demore, 538 U.S. at 528.
81. Civil detention must remain “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690.
82. Other than punishment for a crime, due process permits the government to take away liberty only “in certain special and narrow nonpunitive circumstances . . . where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” Zadvydas, 533 U.S. at 690 (quotation marks omitted).
83. Such special justification exists only where a restraint on liberty bears a “reasonable relation” to permissible purposes. Jackson v. Indiana, 406 U.S.

715, 738 (1972); see also Foucha v. Louisiana, 504 U.S. 71, 79 (1992); Zadvydas, 533 U.S. at 690.

### **CAUSE OF ACTION**

#### **COUNT ONE: VIOLATION OF THE FIFTH AMENDMENT**

1. Petitioner re-alleges and incorporates by reference each allegation.
2. The Fifth Amendment Due Process Clause protects against arbitrary detention by the executive branch. Zadvydas, 533 U.S. at 699.
3. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized.” Id.
4. “After this 6–month period [of detention], 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. at 701.
5. “[F]or detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” Id.
6. Courts in Minnesota “have found no significant likelihood of removal ... where the detainee is stateless and no country will accept him [and] where the detainee's country of origin refuses to issue a travel document.” Ahmed v. Brott, 2015 WL 1542131, at \*4 (D. Minn. Mar. 17, 2015).

7. Petitioner has been detained more than six months post removal order.
8. Petitioner is stateless. Ex. F.
9. Petitioner's country of origin, Bosnia, has refused to issue a travel document.
10. Three other countries have refused to accept Petitioner.
11. Petitioner is materially indistinguishable from the petitioner in Zadvydas.
12. Continued detention violates the Fifth Amendment and Petitioner's writ of habeas corpus must issue.

**COUNT TWO: VIOLATION OF ADMINISTRATIVE PROCEDURES ACT**

13. Petitioner re-alleges and incorporates by reference each allegation.
14. Under the APA, “[t]he reviewing court shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... contrary to constitutional right.” 5 U.S.C. § 706 (2)(B).
15. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” Zadvydas, 533 U.S. at 699.
16. “Congress previously doubted the constitutionality of detention for more than six months. ... 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. at 701.

17. Petitioner's detention is unreasonable, as Petitioner's removal to Bosnia has been stymied by that country's refusal to issue a travel permit and Petitioner's statelessness.
18. Three other countries have similarly denied Petitioner travel authorization.
19. More than six months have elapsed since Petitioner's removal order became final.
20. Petitioner's ongoing detention is therefore unreasonable, and therefore, is a violation of Petitioner's Fifth Amendment guarantee of due process and the Administrative Procedures Act.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner, Saeed Petitioner, asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Issue an order restraining Respondents from attempting to move Petitioner from the State of Minnesota during the pendency of this Petition.
3. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
4. Issue an order requiring that Petitioner be provided due process prior to any removal to any allegedly safe third country in the form of an opportunity to assert a credible fear of that country, should such a fear exist, followed by a

full merits hearing for asylum, withholding of removal, and DCAT before an immigration judge, should such a third country be identified while this petition is pending.

5. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C., chapter 153 related to habeas actions.
6. Order Respondents to show cause for their continued detention of Petitioner within three days pursuant to 28 U.S.C. § 2243.
7. Grant the writ of habeas corpus.
8. Order Petitioner's release from custody under an order of supervision or other condition as set by the Court.
9. Declare that Respondents' action is arbitrary and capricious.
10. 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.
11. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).
12. Grant all further relief this Court deems just and proper.

DATED: October 1, 2025

Respectfully submitted,

/s/ Cameron Giebink  
Cameron Giebink  
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MN Attorney #0402670

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

I am submitting this verification on behalf of Petitioner because I am his attorney. I have discussed the events described in this Petition with Petitioner and have reviewed relevant paperwork corroborating this petition. Petitioner has reviewed the petition in full and confirmed its contents. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the dates and nature of the administrative appellate procedure, are true and correct to the best of my knowledge.

/s/ Cameron Giebink  
Cameron Giebink

10/1/2025  
Date: