

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

Heithem Mohammad ABDUL KHALIQ

Petitioner,

v.

KRISTI NOEM, Secretary
of the U.S. Department of Homeland
Security; **PAMELA BONDI**, Attorney General
the United States; **JOSHUA JOHNSON**,
Acting Director of the Dallas Field Office of
U.S. Immigration and Customs Enforcement;
and **SCARLET GRANT, Ed.D.**, Warden,
Cimarron Correctional Facility,
in their official capacities.

Respondents.

Case No. _____

Immigration File No.
A042-381-990

**PETITION FOR WRIT OF HABEAS
CORPUS**

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. Petitioner, Heithem Mohammad Abdul Khaliq, ("Petitioner"), by and through his undersigned counsel, hereby petitions this Court for a writ of habeas corpus to review the lawfulness of his detention by the Department of Homeland Security. Petitioner is currently being held in detention by Immigration and Customs Enforcement (ICE), a part of the Department of Homeland Security. Petitioner has been detained since March 6, 2025. His removal from the United States is not reasonably foreseeable. Accordingly, to vindicate Petitioner's statutory and constitutional rights and to put an end to his continued arbitrary detention, this Court should grant the instant petition for a writ of habeas corpus.

2. Petitioner's removal is not reasonably foreseeable because he is essentially

stateless. He was born in Saudi Arabia to non-Saudi parents and thus is not a Saudi citizen despite his removal order to Saudi Arabia. It appears that ICE has not been able to procure travel documents to Saudi Arabia and thus, absent an order from this Court, Petitioner will likely remain detained for many months, if not years, because ICE cannot effectuate his removal to Saudi Arabia.

3. Petitioner asks this Court to find that his prolonged incarceration is unreasonable and to order his immediate release.

JURISDICTION

4. Petitioner is detained in civil immigration custody at the Cimarron Correctional Facility in Cushing, Oklahoma. ICE has contracted with the Cimarron Correctional Facility to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

5. This action arises under the Constitution, the Immigration & Nationality Act of 1952, as amended (the "INA"), 8 U.S.C. §§1101 *et seq.*

6. 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). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

7. Venue is proper because Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma, which is within the jurisdiction of this district.

8. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because

Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Oklahoma.

PARTIES

9. Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma. He is in custody, and under the direct control, of Respondents and their agents.

10. Respondent Dr. Scarlet Grant is the Warden of Cimarron Correctional Facility, and she 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. Respondent Grant is a legal custodian of Petitioner.

11. Respondent Joshua Johnson is sued in his official capacity as the Acting Director of the Dallas Field Office and Oklahoma City Sub-Office of U.S. Immigration and Customs Enforcement (ICE). Respondent Johnson is a legal custodian of Petitioner and has authority to release him.

12. 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 Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement. Respondent Noem is a legal custodian of Petitioner.

13. 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 Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

14. Petitioner was born on  1974, in Saudi Arabia.

15. Petitioner immigrated to the United States as a Lawful Permanent Resident, on or about May 30, 1990. On January 23, 2018, Petitioner entered a guilty plea in the District Court of Oklahoma County for driving under the influence, possession of CDS, possession of drug paraphernalia, and driving while privilege revoked.

16. He was turned over to ICE custody for removal proceedings in April 2019, and on August 30, 2019, the immigration judge ordered removal to Saudi Arabia. Petitioner appealed the denial. Petitioner's appeal was dismissed on February 20, 2020. He submitted a motion to reopen, which was denied and appealed to the Fifth Circuit Court of Appeals. That appeal was dismissed in part and denied in part on June 2, 2022.

17. Meanwhile, he was released from custody in August of 2021 because Respondents could not effectuate his removal. Respondents placed him on an order of supervision, requiring him to comply with periodic check-ins, for which he complied.

18. At his check-in on March 6, 2025, he was detained after being told that Respondents had a change in policy. Following his re-detention, he alleges that he has complied with all of Respondents' requests and has inquired about the prolonged detention only to be told that he has a final order of removal.

LEGAL FRAMEWORK

19. 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).

20. “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).

21. 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.

22. 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.”

23. 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.

24. 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.*

25. 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.

26. 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.

27. 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.

28. 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

29. Petitioner re-alleges and incorporates by reference the paragraphs above as

though fully set forth herein.

30. 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.

31. Petitioner has been detained by Respondents for over [6] months on this current detention.

32. Petitioner’s removal order became administratively final on February 20, 2020. The removal period began on that day and Respondent’s have not been able to effectuate removal. He was previously detained from 2018 until August of 2021 when he was released because ICE was not able to effectuate removal.

33. Petitioner’s prolonged detention is not likely to end in the reasonably foreseeable future. Petitioner was born in Saudi Arabia; however, he is not a citizen of Saudi Arabia by birth. 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.

34. 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)

35. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

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) Declare that Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

s/Kelli J. Stump
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Dated: October 3, 2025

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd day of October 2025, in Oklahoma City, Oklahoma.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2025, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Robert J. Troester, U.S. Attorney
Western District of Oklahoma
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s/Kelli Stump
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