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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

KARIM OUD SALEM, A [redacted] **Petitioner,** **v.** **ERIC ROKOSKY,** **Warden,** **Elizabeth Contract Detention Facility;** **JONATHAN FLORENTINO,** **Acting Newark Field Office Director,** **Enforcement and Removal Operations,** **U.S. Immigration and** **Customs Enforcement (ICE);** **TODD LYONS,** **Acting Director,** **U.S. Immigration and** **Customs Enforcement (ICE); and** **KRISTI NOEM,** **Secretary of the Department of** **Homeland Security (DHS)** **in their official capacities,** **Respondents.**	**Case No. _____** **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner, Karim DAOUD MAHMOUD SALEM, a citizen of Egypt who has resided in the United States since May 19, 2004, is the spouse of a U.S. citizen and father of two U.S. citizen children. He is currently detained at the Elizabeth Contract Detention Facility in Elizabeth, NJ and respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his continued detention by U.S. immigration authorities. Petitioner has been detained since March 12, 2025 pursuant to a final order of removal dated June 29, 2010.[1] It has now been over 218 days since ICE's detention of the Petitioner, and ICE refuses to release him, concluding, without evidence, that he is a "risk of flight" based solely on his immigration history. Exhibit 3, ICE Post-Order Custody Review Decision dated June 9, 2025.

2. On June 3, 2025, the Board of Immigration Appeals (BIA) granted a Motion for Emergency Stay of Removal (Exhibit 5) on behalf of the Petitioner, and a Motion to Reopen his removal proceedings is currently pending before the BIA. Due to this Stay in effect, his removal from the U.S. is not reasonably foreseeable. If the BIA grants his pending Motion to Reopen, he will be eligible to obtain lawful permanent residence ("a green card") as the beneficiary of an approved visa petition filed by his U.S. citizen spouse, which will allow him to remain in the U.S. indefinitely and avoid deportation.

[1] On December 3, 2008, the Immigration Court granted voluntary departure through February 2, 2009. Petitioner's prior counsel filed an appeal to the BIA, which was dismissed on June 29, 2010 – the date that his removal order became administratively final. ICE has repeatedly referred to June 29, 2010 as the final removal order date in its written documents. *See* Exhibit 3, ICE Custody Review Decision, and Exhibit 9, ICE Order of Supervision.

3. Petitioner respectfully requests that the Court issue an Order to Show Cause why a writ of habeas corpus should not be granted, schedule oral argument if deemed helpful, and find that his prolonged ICE detention is unreasonable, ordering his immediate release from custody. Alternatively, order that Petitioner be released under an appropriate order of supervision or on a reasonable bond, with conditions reasonably calculated to ensure compliance with immigration obligations, and enjoin Respondents from re-detaining Petitioner without prior judicial approval.

JURISDICTION

4. Petitioner is detained in federal civil immigration custody at the Elizabeth Contract Detention Facility in Elizabeth, NJ. He has been detained there since March 12, 2025. On June 9, 2025, John Tsoukaris, Former Newark ICE Field Office Director, issued a written decision denying Petitioner's release from custody, ostensibly deeming him a "risk of flight," despite a lack of evidence to support this conclusion. Exhibit 3. Petitioner has no criminal convictions and no history of failure to comply with ICE's supervision and reporting requirements. He remains detained in the Elizabeth Contract Detention Facility, within this District; accordingly, this Court has jurisdiction over the proper respondent, Petitioner's immediate custodian. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, which authorizes review of the lawfulness of federal detention; 28 U.S.C. § 1331 (federal question), including authority to review agency action under the Administrative Procedure Act

("APA"), 5 U.S.C. § 701 *et seq.*; and Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause). This Court has authority to grant the relief requested 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

6. Venue is proper in this Court because Petitioner is detained at the Elizabeth Contract Detention Facility in Elizabeth, New Jersey, which is within the jurisdiction of this District. *See* 28 U.S.C. § 2241; *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

PARTIES

7. Petitioner is a 42-year-old married male native and citizen of Egypt who has been detained at the Elizabeth Contract Detention Facility since March 12, 2025. He has been detained for over 218 days and is in the custody, and under the direct control of, Respondents and their agents.

8. Respondent Eric Rokosky is sued in his official capacity as the Warden of the Elizabeth Contract Detention Facility and he has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens. As such, he is Petitioner's actual physical custodian.

9. Respondent Jonathan Florentino is sued in his official capacity as the Acting Director of the Newark, NJ Field Office of Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE). Respondent Florentino is a legal custodian of Petitioner and has authority to release him.

10. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE), a department within the Department of Homeland Security, and in this capacity he is responsible for administering and enforcing the immigration laws in New Jersey and nationwide and is Petitioner's legal custodian.

11. 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 INA, and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is empowered to carry out any administrative order against the Petitioner and is a legal custodian of Petitioner.

STATEMENT OF FACTS

The following facts show that Petitioner has deep family and community ties in the United States, has fully complied with ICE supervision while diligently pursuing available immigration relief, and is being unlawfully detained while his removal is stayed and his Motion to Reopen remains pending.

12. Petitioner Karim Daoud Mahmoud Salem is a 42-year-old married male native and citizen of Egypt who entered the United States legally with a visitor's visa on May 19, 2004. He has remained in the U.S. without departure since that date. He has been married to Jennifer Metz, a U.S. citizen, since January 27, 2011, and they have two children, a 14-year-old daughter, A[redacted] and a 10-year-old son, [redacted] Prior to his ICE detention, Petitioner resided with

his wife and children in Pittstown, NJ. *See* Exhibit 10, Affidavit of Petitioner's Spouse, and Exhibit 12, Birth Certificates of Petitioner's U.S. Citizen Children.

13. Petitioner is the beneficiary of an approved Form I-130 visa petition filed on his behalf by his wife. Exhibit 8. Based upon this approved visa petition, Petitioner would be eligible to adjust his status and legally remain in the U.S. with his family, but for the final order of removal in his case.

14. Petitioner was placed in removal proceedings initially in March 2005, as a visa overstay. He appeared at all required Court proceedings, and the Immigration Court terminated proceedings in October 2005. DHS moved to reopen removal proceedings in 2008, which the Immigration Court granted.

15. DHS moved to reopen removal proceedings due to unfounded allegations of attempted marriage fraud that were baseless, and DHS was never able to prove said allegations.

16. On December 3, 2008, the Immigration Court granted voluntary departure to the Petitioner through February 2, 2009. Petitioner's prior counsel filed a timely appeal to the BIA, which was dismissed on June 29, 2010 – the date that his removal order became administratively final. He then filed a motion to reopen with the BIA on August 9, 2010, which the Board denied on January 26, 2011.

17. On January 27, 2011, Petitioner married Jennifer Metz, who filed a Form I-130 on his behalf. That I-130 was initially approved on December 28, 2011, but it was later revoked by USCIS in February 2013. In August 2018, Ms. Metz filed a second Form I-130, with the assistance of undersigned counsel, which was denied by USCIS, due to the same unfounded allegations that the Petitioner had previously "attempted" or

"conspired" to commit marriage fraud within the meaning of the Immigration and Nationality Act. She filed a visa petition appeal of that decision with the BIA in May 2020.

18. On May 22, 2023, the BIA finally issued a decision in the visa petition proceedings, approving the second Form I-130 filed by Ms. Metz. The BIA held that "… we discern no substantial and probative evidence of a disqualifying 'agreement' to enter into a sham marriage,,,As there was no agreement, there was no conspiracy to enter into a sham marriage." The BIA also found that there was a lack of "substantial and probative evidence" that the Petitioner engaged in an "attempt" to commit marriage fraud, and thus sustained the appeal and approved the visa petition. Exhibit 6. USCIS issued an approval notice several months later. *Id.*

19. In the meantime, while the visa petition adjudication and appeal was pending, Petitioner's present counsel filed a motion to reopen before the Immigration Court in September 2019. That motion was denied, and counsel filed an appeal of that motion with the BIA in December 2019. On May 11, 2021, the BIA issued a decision denying that motion to reopen and dismissing the appeal.

20. After the BIA approved the visa petition, on August 17, 2023, counsel for Petitioner requested that the Newark ICE Office of the Principal Legal Advisor (OPLA) join in a motion to reopen his removal proceedings so that he could apply to adjust status and become a lawful permanent resident. For more than a year, OPLA failed to respond. In September 2024, OPLA counsel finally stated that they would not join a motion to reopen at that time.

21. In November 2019, Petitioner voluntarily appeared at the ICE Newark Field Office

and requested to be placed on an Order of Supervision. ICE agreed and placed him on an Order of Supervision, with enrollment in the Alternatives to Detention (ATD) Program and monitoring under the Intensive Supervision Appearance Program (ISAP), in lieu of detention and/or removal. Petitioner maintained strict compliance with the ICE Order of Supervision and all reporting and ISAP monitoring requirements for more than five years. Exhibit 9, Proof of ICE Order of Supervision and Compliance. During this time period, ICE officials did not seek to detain him or remove him from the U.S.

22. On March 12, 2025, ICE abruptly terminated Petitioner's Order of Supervision without prior notice and detained him at the Newark Field Office when he voluntarily appeared to meet with his ISAP officer. Petitioner had come that day seeking written proof of his compliance with the Order of Supervision, as requested by USCIS for his Employment Authorization Document renewal. Instead of providing the documents, the ISAP officer directed him to the ICE office, where officers under former Newark ICE Field Office Director Tsoukaris' control arrested him and transferred him to the Elizabeth Contract Detention Facility.

23. On or about March 17, 2025, Petitioner, through his counsel of record, filed a request for an administrative stay of removal, Form I-246, with the ICE Newark Field Office. Exhibit 1.

24. Along with Form I-246, Petitioner submitted extensive documentation of significant humanitarian factors, including proof of his wife's diagnosis of stage 2 invasive lobular breast cancer, her complete and total mastectomy surgery in June 2024, and her continued radiation therapy. He also submitted proof of his wife's need for

surgical removal of her ovaries, deemed a medical necessity after her mother died from ovarian cancer. In addition, he submitted evidence of his young son's numerous serious medical illnesses, including ulcerative colitis, recurrent upper respiratory infections, and pneumonia, which necessitated numerous hospitalizations. *Id.*

25. On April 8, 2025, the ICE Newark Field Office denied the Petitioner's request for stay of removal in a written decision signed by former Newark ICE Field Office Director Tsoukaris. Exhibit 2. The decision noted that "Granting a stay…is reserved for a select group of cases whose circumstances reflect compelling humanitarian and…warrant such extraordinary action. The immigration and criminal history of this case, when balanced against the positive factors you raise and the agency's goals, do not warrant the positive exercise of discretion in this matter." *Id.*

26. Contrary to the statement made by former Newark ICE Field Office Director Tsoukaris in the April 8, 2025 decision, the Petitioner has no criminal history whatsoever. His most recent immigration history included his more than five years of compliance with the ICE Order of Supervision.

27. On April 18, 2025, Petitioner filed a Motion to Reopen removal proceedings with the Board of Immigration Appeals (BIA), seeking reopening based upon the approval of his spouse's Form I-130 visa petition appeal by the BIA on May 22, 2023, and his prima facie eligibility to apply for Adjustment of Status pursuant to 8 U.S.C. § 1255(a), but for the outstanding removal order. Exhibit 4. Petitioner based his Motion on the sua sponte authority of the BIA to reopen removal proceedings at any time, pursuant to 8 C.F.R. § 1003.2(a). He submitted evidence of the numerous positive equities and humanitarian factors in his case, including

his wife's diagnosis and ongoing treatment for breast cancer and his son's serious illnesses.

28. On June 9, 2025, DHS filed an untimely Opposition to Petitioner's Motion to Reopen with the BIA. On June 27, 2025, Petitioner filed a Response to the DHS Opposition with the BIA. The Motion to Reopen is currently pending with the BIA.

29. On April 18, 2025, Petitioner filed a Motion for Emergency Stay of Removal with the BIA. On June 3, 2025, the BIA granted the Motion for Emergency Stay of Removal. Exhibit 5.

30. On June 9, 2025, the former ICE Newark Field Office Director, John Tsoukaris, issued a written "Decision to Continue Detention" regarding the custody of Petitioner. Exhibit 3. The decision stated that ICE would not release the Petitioner, considering him to be a "flight risk" based upon his immigration history. *Id.* ICE never provided advance notice of this Post Order Custody Review (POCR) to Petitioner or his counsel of record. ICE also failed to properly serve the custody decision on Petitioner's counsel of record.

31. On or about July 21, 2025, Petitioner submitted a Request for Reconsideration of the Post-Order Custody Review Decision to both the ICE Newark Field Office and the DHS Headquarters Post-Order Detention Unit in Washington, DC. Exhibit 7. In this Request, he requested release on a reasonable bond, or in the alternative, a return to his prior Order of Supervision with ISAP monitoring, noting that the POCR had not been conducted in accordance with ICE's own procedures.

32. Since that time, Petitioner has not received any response from the DHS Headquarters Post-Order Detention Unit.

33. On September 19, 2025, Mr. Lawrence Schiller, a Deportation Officer from the ICE Newark Office of Enforcement and Removal Operations, transmitted an email to Petitioner's counsel, attaching the June 9, 2025 custody determination. In a subsequent email on September 19, 2025, Mr. Schiller confirmed ICE's intention to prolong Petitioner's detention without meaningful review. He stated that Petitioner's next custody review would occur either '90 days after the stay [issued by the BIA] is lifted' or, if the stay remains in effect, in June 2026 - 15 months after his initial detention. Exhibit 8, Recent Email Correspondence.

34. Since the Petitioner's detention in ICE custody over 218 days ago, his wife and children have suffered irreparable and continuing emotional, physical, and economic harm. These harms are detailed by Petitioner's wife in her Affidavit, Exhibit 10.

35. Petitioner's wife explains that he was subjected to abrupt detention by ICE on March 12, 2025. She states, "Since that day, our family's life has been a nightmare. I became a single parent and sole provider overnight…We have had to postpone my ovarian surgery and final breast surgery, as it would be impossible to recover and care for the children alone…Our children are deeply affected by Karim's prolonged detention…" Exhibit 10.

36. Petitioner's wife further explains that their 10-year-old son has been sleeping in her bedroom since his father's detention, and that he experiences panic attacks. Their daughter is suffering academically and mentally. She and their two children and receiving mental health therapy to help cope with the prolonged detention of their father. As the sole parent currently, she continues to suffer, stating, "I do not sleep

or always eat regularly. I am on constant high alert to keep our family together. I only get to see my husband for two hours a week, with minimal physical contact and no privacy." *Id.*

37. In addition to these serious hardships, Petitioner's father passed away in Egypt on October 9, 2025. Petitioner's wife explains how he has been affected by this news: "I had to break the news to him by visiting him in the detention center the next day. This was not the kind of news I could give to him over the phone. Can you imagine how much Karim's grief over his father's sudden death is compounded by the fact that he is detained, and he is unable to be comforted by his wife and children? He will be dealing with the guilt of missing his father's funeral for years to come." *Id.*

38. Petitioner's removal from the United States cannot be effectuated in the reasonably foreseeable future, due to the stay of removal in effect from the BIA. Petitioner has cooperated with all ICE requests to secure a passport. He has no record of discipline in ICE detention. To the contrary, he has been a model detainee for over 218 days, voluntarily assisting communication between detention officials and detainees by acting as an interpreter, as he speaks five languages – Arabic, English, French, Spanish, and Italian.

39. Absent judicial review of his custody claim, Petitioner will continue to suffer irreparable injury by being deprived of his physical liberty. He seeks the only avenue of judicial review available to him, habeas review.

CLAIMS FOR REI.IEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

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

41. 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.

42. Petitioner has been deprived of his liberty and detained by Respondents for over 218 days. Over seven months of this prolonged detention has taken place after he was taken into ICE custody.

43. Petitioner's continued detention violates the Fifth Amendment's Due Process Clause. Petitioner has been detained well beyond the six-month presumptively reasonable period recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Because the Board of Immigration Appeals has stayed Petitioner's removal while adjudicating his Motion to Reopen, removal is not reasonably foreseeable.

44. Continued detention under these circumstances is not justified by any legitimate government interest and violates substantive due process. While Respondents purportedly reviewed Petitioner's custody status in June 2025, this review was not meaningful or fair, and it did not provide due process to the Petitioner.

COUNT TWO

Violation of 8 U.S.C. § 1231(a) and *Zadvydas v. Davis*

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

46. The Immigration and Nationality Act provides for a 90-day "removal period," which begins when a removal order becomes final. During this time, the government must detain the individual and attempt to carry out the removal. 8 U.S.C. § 1231(a)(1)–(2). After that 90-day window, the statute allows continued detention under § 1231(a)(6) for limited categories of noncitizens. But the Supreme Court has made clear that such post-removal period detention is authorized only so long as removal remains reasonably foreseeable, and not for an indefinite duration. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001); *Clark v. Martinez*, 543 U.S. 371, 386 (2005).

47. Under 8 U.S.C. § 1231(a)(6), post–removal-period detention is authorized only for a limited subset of noncitizens: those who are inadmissible under § 1182, deportable under § 1227(a)(1)(C), (a)(2), or (a)(4), or those whom the Attorney General specifically determines to be a danger to the community or unlikely to comply with the removal order. Petitioner does not fall within any of these categories. He was lawfully admitted to the United States on a nonimmigrant visa, has no criminal record, and was ordered removed solely for overstaying his period of authorized stay. Accordingly, DHS lacks any statutory authority under § 1231(a)(6) to detain him beyond the 90-day removal period absent a showing that his removal is reasonably foreseeable and that he presents a particularized flight or safety risk.

48. In *Zadvydas v. Davis*, the Supreme Court determined that a detention duration beyond a six-month period of post-removal-order detention was presumptively unreasonable and unconstitutional. *Zadvydas* at 701. "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.*

49. Petitioner's detention has exceeded the presumptively reasonable period, and there is no significant likelihood of removal in the reasonably foreseeable future due to the BIA's stay of removal. 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).

COUNT THREE

Arbitrary and Capricious Agency Action and Violation of ICE's Own Regulations

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

51. Respondents' decision to continue detaining Petitioner is unlawful because it is arbitrary, capricious, and contrary to law. *See* 5 U.S.C. § 706(2)(A). ICE failed to comply with its own post-order custody review regulations, 8 C.F.R. § 241.4, by not providing Petitioner or his counsel with notice of the 90-day custody review, not allowing the submission of evidence, and not conducting a meaningful individualized review.

52. ICE's custody determination also contains factual errors and relies on boilerplate conclusions unsupported by the record. ICE arbitrarily postponed the next custody review until either one year after its decision or 90 days after the stay is lifted, effectively foreclosing meaningful periodic review.

53. These failures violate ICE's own regulations (8 C.F.R. § 241.4), in violation of *Accardi v. Shaughnessy*, 347 U.S. 260 (1954), and render the decision arbitrary and unlawful under the Administrative Procedure Act. ICE's conduct reflects an impermissible use of detention to pressure Petitioner to abandon lawful avenues of relief rather than to effectuate removal.

COUNT FOUR

Unlawful Punitive Detention in Violation of the Fifth Amendment

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

55. Respondents' actions amount to punitive detention in violation of Petitioner's substantive due process rights. ICE's continued detention of Petitioner, despite the unlikelihood of removal in the foreseeable future, its failure to follow required procedures, and its reliance on boilerplate assertions, suggests that detention is being used as a coercive tool to punish Petitioner for pursuing legal relief.

56. Petitioner is in the process of seeking legal relief in the form of his pending Motion to Reopen before the BIA. He seeks reopening of his removal order because, but for such order, he would be eligible to obtain lawful permanent resident status in the U.S. and thus avoid removal.

57. Detention that is excessive in relation to its regulatory purpose is unconstitutional. *Bell v. Wolfish*, 441 U.S. 520 (1979); *Zadvydas v. Davis*, 533 U.S. 678 (2001). ICE's actions lack a legitimate regulatory justification and are impermissibly punitive.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's ongoing, prolonged detention violates the Fifth Amendment's Due Process Clause, 8 U.S.C. § 1231(a), the Administrative Procedure Act, and applicable ICE regulations;
3. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
4. Alternatively, order that Petitioner be released under an appropriate order of supervision or on a reasonable bond, with conditions reasonably calculated to ensure compliance with immigration obligations, and enjoin Respondents from re-detaining Petitioner without prior judicial approval;
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,

s/ Veronica Cardenas
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Attorney for Petitioner

Dated October 19, 2025

VERIFICATION BY COUNSEL

I, Veronica Cardenas, declare under penalty of perjury as follows:

1. I am the attorney for Petitioner in this matter and am personally familiar with the facts of his case;

2. I have read the allegations contained in the foregoing Petition for Writ of Habeas Corpus and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.

3. I have also reviewed the documents attached to this Petition and confirm that they are true copies of the originals and that all the facts or allegations ascertained therein are true and correct to the best of my knowledge and experience.

Executed on October 19, 2025.

_s/ Veronica Cardenas_____
Veronica Cardenas, Esquire