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6 *Attorneys for Petitioner Salimitari*

7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 Saied Salimitari,

10 Petitioner,

11 vs.

12 David R. Rivas, Warden, San Luis Regional  
13 Detention Center;

14 Gregory J. Archambeault, San Diego Field  
15 Office Director, U.S. Immigration and  
Customs Enforcement;

16 Pamela Jo Bondi, Attorney General of the  
17 United States; and

18 Kristi Noem, Secretary of Homeland  
19 Security,

20 Respondents.

No.

**Petition for a Writ of Habeas Corpus  
Under 28 U.S.C. § 2241**

21 **Technical Data**

- 22
- 23 1. Mr. Salimitari is challenging the validity of his detention in immigration custody. His A-  
number is ~~XXXXXXXXXX~~. He has also used A-number ~~XXXXXXXXXX~~.
- 24 2. Mr. Salimitari is challenging the decision made by U.S. Immigration and Customs  
25 Enforcement to revoke a prior release order issued in approximately 2004 and to detain  
26 him pending removal from the United States.
- 27
- 28



1 on March 26, 1979. He was issued a temporary resident card on May 4, 1988, and granted  
2 temporary resident status in the United States on May 3, 1989.

3 11. Mr. Salimitari has suffered the following criminal convictions:

- 4 a. On October 21, 2002, Mr. Salimitari was convicted in Collin County, Texas,  
5 Court at Law of misdemeanor assault, in violation of Tex. Penal Code  
6 § 22.01(a)(1). He was sentenced to 364 days in jail, with all but 12 days suspended,  
7 followed by two years of community supervision, and ordered to pay a \$1000 fine.
- 8 b. On March 21, 2003, Mr. Salimitari was convicted in Collins County, Texas, Court  
9 at Law of misdemeanor assault on a family member, in violation of Tex. Penal  
10 Code § 22.01(a)(1). He was sentenced to 270 days in jail and imposed a \$1000  
11 fine.
- 12 c. Immigration records list three other Texas misdemeanor convictions for Mr.  
13 Salimitari—two convictions for violating a protective order, in violation of Tex.  
14 Penal Code § 25.07, and one for interfering with an emergency phone call, in  
15 violation of Tex. Penal Code § 42.062. None of these are more recent than the  
16 two misdemeanor assault convictions.

17 12. On October 20, 2003, Mr. Salimitari was released from the Collins County Jail and  
18 transferred to ICE custody at the Rollins Plains Regional Jail and Detention Center in  
19 Haskell, Texas. He was placed in removal proceedings there.

20 13. On November 29, 2004, Mr. Salimitari was ordered removed from the United States to  
21 Iran. Eleven months later, ICE released him from detention on an order of supervision  
22 because it was unable to obtain travel documents to facilitate his return to Iran. Mr.  
23 Salimitari reported regularly as required ever since.

24 14. In 2012, Mr. Salimitari's temporary resident status was terminated. His two A-files were  
25 finally combined, and after a complete review of both files it was determined that he did  
26 not qualify for temporary resident status when it was granted to him in 1989.  
27  
28

- 1 15. Mr. Salimitari's removal proceedings were reopened in 2015. He was again ordered  
2 removed by an immigration judge in 2019. Mr. Salimitari did not appeal the removal  
3 order. It became final on May 15, 2019, when the time for filing a notice of appeal to the  
4 Board of Immigration Appeals expired. *See* 8 C.F.R. § 1003.38(b).
- 5 16. Despite this new removal order, Mr. Salimitari remained out of detention and continued  
6 to report for regular checkins with ICE. On July 17, 2025, when he reported for his ICE  
7 checkin in San Diego, California, ICE arrested him.
- 8 17. ICE has requested travel documents for Mr. Salimitari. This request was likely directed at  
9 the Office for the Protection of the Interests of the Islamic Republic of Iran. This office is  
10 hosted by the Pakistani Embassy in Washington, DC. *See Nibkakhsh-Tali v. Mukasey*, No.  
11 2:07-cv-1526-PHX-NVW, 2008 WL 2328354, at \*3 (D. Ariz. Jun. 4, 2008) (report and  
12 recommendation of Velasco, M.J.). Another judge of this Court concluded, in 2008, that  
13 in light of Iran's lack of cooperation (through the Pakistani Embassy) with a request for  
14 travel documents, an immigration detainee's removal to Iran was not significantly likely  
15 in the reasonably foreseeable future. *Id.* at \*8. Given that Mr. Salimitari was at liberty on  
16 an order of supervision from November 2004 to July 2025, and required to cooperate with  
17 efforts to obtain travel documents on his behalf, it is unlikely that ICE will be able to  
18 obtain travel documents for him now.

### 19 **Grounds for Relief**

20 **Ground One: Mr. Salimitari's continued detention in immigration custody violates the Due**  
21 **Process Clause of the Fifth Amendment to the U.S. Constitution because**  
22 **there is no significant likelihood that he will be removed in the reasonably**  
**foreseeable future.**

- 23 18. Because Mr. Salimitari has a final order of removal, his present detention is purportedly  
24 authorized, if at all, under 8 U.S.C. § 1231(a). The Due Process Clause of the Fifth  
25 Amendment limits "an alien's post-removal-period detention to a period reasonably  
26 necessary to bring about that alien's removal from the United States." *Zadydas v. Davis*,

1 533 U.S. 678, 689 (2001). Because of this constitutional limitation, § 1231 “does not  
2 permit indefinite detention.” *Id.*

3 19. When an alien is ordered removed, that removal ordinarily must take place within a 90-  
4 day period of time called the “removal period.” 8 U.S.C. § 1231(a)(1)(A). This period  
5 begins, as relevant here, when the removal order became administratively final. 8 U.S.C.  
6 § 1231(a)(1)(B)(i).

7 20. Detention during and after the removal period is presumptively limited to six months.  
8 “After this 6-month period, once the alien provides good reason to believe that there is no  
9 significant likelihood of removal in the reasonably foreseeable future, the Government  
10 must respond with evidence sufficient to rebut that showing.” *Id.* at 701.

11 21. The showing of “good reason to believe” that there is no significant likelihood of removal  
12 in the reasonably foreseeable future “does not place a burden on the detainee to  
13 demonstrate *no* reasonably foreseeable, significant likelihood of removal or show that his  
14 detention is indefinite; it is something less than that.” *Senor v. Barr*, 401 F. Supp. 3d 420,  
15 430 (W.D.N.Y. 2019) (quoting *D’Alessandro v. Mukasey*, 628 F. Supp. 2d 368, 404  
16 (W.D.N.Y. 2009)) (cleaned up and emphasis added). The “passage of time combined  
17 with the government being no closer to repatriating a detainee than they were once they  
18 first took him into custody” is “sufficient to meet that initial burden.” *Id.* (quoting *Singh*  
19 *v. Whitaker*, 362 F. Supp. 3d 93, 102–03 (W.D.N.Y. 2019)) (cleaned up).

20 22. Here, Mr. Salimitari has been subject to a final order of removal for over five years.  
21 Respondents are no closer to effecting his removal than they were on the day his removal  
22 order became final.

23 23. Upon information and belief, respondents cannot rebut Mr. Salimitari’s showing that  
24 there is no significant likelihood of removal in the reasonably foreseeable future.

25 a. If respondents should assert, by relying on the declaration of a detention officer,  
26 that “DHS is expecting the travel documents to be issued in the near future,” that  
27 assertion is insufficient to rebut Mr. Salimitari’s showing. *See id.* at 431. Such an  
28

1 assertion is not evidence that respondents are taking any further action to obtain  
2 travel documents beyond whatever initial efforts they made when Mr. Salimitari  
3 was first ordered removed in 2004.

4 b. If respondents should assert that Mr. Salimitari's removal is likely in the  
5 reasonably foreseeable future because they have recently been able to remove  
6 others to Iran, that assertion does not rebut Mr. Salimitari's showing. Such an  
7 assertion would shed little light on why Mr. Salimitari's removal has not yet been  
8 accomplished. *Cf. id.* ("The government observes that many other individuals  
9 have been removed to Haiti. Docket Item 11-1 at 5. That might well be true, but it  
10 sheds little light on why *Senor's* removal has been delayed and what that means  
11 for *Senor's* prospects for removal occurring in the reasonably foreseeable  
12 future."). On the contrary—the fact that the government has recently succeeded  
13 in removing *other people* to Iran “may underscore the problems it has had  
14 attempting to remove” Mr. Salimitari. *Id.* (quoting *Seretse-Khama v. Ashcroft*, 215  
15 F. Supp. 2d 37, 50 (D.D.C. 2002)).

16 c. If the government should assert, or demonstrate through the discovery process,  
17 that officials at Iranian Interests Section of the Pakistani Embassy are slow to  
18 respond to ICE's requests for travel documents, or that those officials are  
19 completely *unresponsive*, that would be powerful evidence in support of Mr.  
20 Salimitari's claim that his removal is not likely in the reasonably foreseeable  
21 future. For detention after the removal period expires to remain reasonable, “as  
22 the period of prior post-removal confinement grows, what counts as the  
23 ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533  
24 U.S. at 701. Slow responses from the Iranian Interests Section, no less than a  
25 complete lack of a response, leaves the Court to guess whether Mr. Salimitari's  
26 deportation “might occur in ten days, ten months, or ten years.” *Senor*, 401 F.  
27 Supp. 3d at 432. (quoting *Singh*, 362 F. Supp. 3d at 102).

28

1 d. In the face of any one of these three assertions, this Court can only conclude that  
2 Mr. Salimitari's detention is unreasonably prolonged, and thus unauthorized by 8  
3 U.S.C. § 1231 and the Due Process Clause of the Fifth Amendment.

4 24. Thus Mr. Salimitari's continued detention in ICE custody violates the Due Process  
5 Clause of the Fifth Amendment as described in *Zadvydas*.

6 **Ground Two: Mr. Salimitari's detention in immigration custody pending removal to any**  
7 **third country violates the Due Process Clause of the Fifth Amendment**  
8 **because ICE has not given him sufficient notice of the proposed third country**  
9 **and an opportunity to request relief from removal to that country, either from**  
10 **an immigration officer, an immigration judge, or a federal court.**

11 25. "It is well established that the Fifth Amendment entitles aliens to due process of law in  
12 the context of removal proceedings." *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per  
13 curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Mr. Salimitari thus is entitled  
14 to "notice and an opportunity to be heard appropriate to the nature of the case." *Id.*  
15 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)). As  
16 relevant here, this means that Mr. Salimitari is entitled to notice that he is to be removed  
17 to a third country "within a reasonable time and in such a manner as will allow [him] to  
18 actually seek habeas relief in the proper venue before such removal occurs." *Id.*

19 26. Mr. Salimitari has not been formally ordered removed to any country other than Iran. As  
20 such, he has never had an opportunity to contest removal to any third country on the  
21 ground that he may face persecution or torture if he is removed to that country.

22 27. To the extent that Mr. Salimitari's detention is meant to facilitate his removal to a third  
23 country, *see generally Zadvydas*, 533 U.S. at 690 (suggesting that detention following a  
24 removal order is intended to facilitate removal), if such a removal is accomplished in  
25 violation of his due-process rights, then his detention is illegal. This due-process claim  
26 "necessarily impl[ies] the invalidity of [his] confinement and removal" to a third country  
27 not yet named in any removal order. *J.G.G.*, 145 S. Ct. at 1005. Thus his due-process  
28 claim is properly brought in a habeas petition, and a court order that he be released from  
detention is a proper remedy for such a violation.

**Prayer for Relief**

28. Mr. Salimitari is being illegally detained, in violation of the Due Process Clause of the Fifth Amendment. He respectfully asks the Court to:

- a. order respondents to answer this petition;
- b. permit him to file a reply in support;
- c. allow him to conduct discovery in support of his claims for relief;
- d. convene an evidentiary hearing, if necessary to resolve disputed facts;
- e. order respondents to release him from custody on an order of supervision; and
- f. grant any other relief that is just and practicable.

Respectfully submitted:

October 24, 2025.

JON M. SANDS  
Federal Public Defender

*s/Keith J. Hilzendege*  
KEITH J. HILZENDEGER  
Assistant Federal Public Defender  
*Attorney for Petitioner Salimitari*

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

Plaintiff(s): **Saied Salimitari , ;**

Defendant(s): **David R. Rivas , Warden, San Luis Detention Center; Gregory J. Archangeault , San Diego Field Office Director, U.S. Immigration and Customs Enforcement; Pamela Jo Bondi , Attorney General of the United States; Kristi Noem , Secretary of Homeland Security;**

County of Residence: Yuma

County of Residence: Yuma

County Where Claim For Relief Arose: Yuma

Plaintiff's Atty(s):

Defendant's Atty(s):

**Keith James Hilzendeger , Assistant Federal Public Defender**  
Federal Public Defender, District of Arizona  
250 North 7th Avenue, Suite 600  
Phoenix, Arizona 85007  
6023822700

**IFP REQUESTED**

**REMOVAL FROM COUNTY, CASE #**

II. Basis of Jurisdiction:

**2. U.S. Government Defendant**

III. Citizenship of Principal Parties(Diversity Cases Only)

N/A

Plaintiff:-

N/A

Defendant:-

IV. Origin :

**1. Original Proceeding**

V. Nature of Suit:

**463 Alien Detainee**

VI.Cause of Action:

**28 U.S.C. 2241**

VII. Requested in Complaint

**No**

Class Action:

**0**

Dollar Demand:

**No**

Jury Demand:

VIII. This case is not related to another case.

Signature: s/Keith J. Hilzendeger

Date: 10/24/2025

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Revised: 01/2014