

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

**Abdellatif Adam Doud Aso,
Petitioner,**

Civil Action No.: 25-4172

v.

**Warden, *Freeborn County Adult Detention
Center. et al.,***

Respondents.

ORAL ARGUMENT REQUESTED

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

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**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

I. INTRODUCTION

Petitioner Abdellatif Adam Doud Aso, by counsel, respectfully moves this Court, pursuant to Fed. R. Civ. P. 65, for a Temporary Restraining Order (TRO) and Preliminary Injunction to preserve the status quo and prevent irreparable harm while this habeas corpus action is pending. Petitioner also seeks a mandatory injunction ordering the Petitioner's immediate release, or an immigration bond hearing in the alternative. In particular, Petitioner seeks an order (1) prohibiting Respondent (and its agents) from transferring Petitioner outside the District of Minnesota during the pendency of this case, and (2) requiring Respondent to provide Petitioner with an individualized bond hearing within 14 days, with the safeguards outlined in the Petition, to determine whether Petitioner's continued detention is justified. Petitioner requests that the Court issue a TRO immediately and set an expedited hearing on a preliminary injunction, as Petitioner faces ongoing injury each day he remains detained without a hearing.

In support of this Motion, Petitioner states as follows:

II. REQUEST FOR EXPEDITED CONSIDERATION

Petitioner requests expedited consideration of this Motion. In light of the ongoing nature of the harm (prolonged detention) and the possibility of transfer, Petitioner asks that the Court issue the TRO without delay. Counsel for Petitioner is prepared to provide any additional information or briefing the Court requires and to appear for a hearing at the Court's earliest convenience.

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III. BACKGROUND

Petitioner is a Sudanese national who has been in ICE custody since July 2, 2024 – over 16 months of detention without any bond hearing. Mr. Aso is a native and citizen of Sudan and an ethnic member of the ██████ tribe, a group that has long been targeted by the ██████ ██████ (“████”) in the Darfur region. *See* “Escapee Describes Summary Killings After Darfur City’s Fall,” MSN (June 2023), <https://www.msn.com/en-us/news/world/escapee-describes-summary-killings-after-darfur-citys-fall/ar-AA1Ppok2?ocid=BingNewsSerp> (last visited Oct. 30, 2025). He and his family fled their village in Darfur in 2005 after it was burned by the ██████. The conflict in Sudan reignited in 2023, during which Mr. Aso’s brother went missing in April 2023 and another brother was later captured after ██████ forces attacked the family home in Khartoum, beating Mr. Aso’s mother and leaving her hospitalized. Fearing for his life, Mr. Aso fled Sudan in August 2023 and entered the United States on July 2, 2024

As detailed in the Petition for Writ of Habeas Corpus filed concurrently, Petitioner’s prolonged detention violates due process. On January 6, 2025, an Immigration Judge granted Petitioner relief from removal, pursuant to withholding of removal and Convention Against Torture protection, based on the likelihood of persecution and torture in Sudan, but the government appealed and the BIA later remanded the case for further proceedings. *See* Ex. 1, IJ Order; *see also* Ex. 2, BIA Decision. Petitioner remains confined during this extended litigation with no individualized determination that he is dangerous or a flight risk. The Petition sets forth a substantial likelihood of success on the merits of Petitioner’s claim that his continued detention without a bond hearing is unconstitutional under the standards recognized in this District. *See Zadvydas v. Davis*, 533 U.S. 678, 682 (2001) (highlightin the serious constitutional concerns of prolonged immigration detention); *see also. Muse v. Sessions*, 409 F. Supp. 3d 707, 713 (D. Minn.

2018) (collecting cases); *Daciann D.B. v. ICE*, 2023 U.S. Dist. LEXIS 202472 (D. Minn. 2023); *Chuol P.M. v. Garland*, 2022 U.S. Dist. LEXIS 112653 (D. Minn. 2022).

IV. STANDARD OF REVIEW

“A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 24 (2008); see *Munaf v. Geren*, 553 U.S. 674, 689 (2008) (noting as a basic principle that “[a] preliminary injunction is an ‘extraordinary and drastic remedy’” that requires an examination of the “likelihood of success on the merits”). This Eighth Circuit has described the primary function of a preliminary injunction as preserving the status quo until the district court has an opportunity to grant full effective relief. *Sanborn Mfg. Co., Inc. v. Campbell Hausfeld/Scott Fetzer Co.*, 997 F.2d 484, 490 (8th Cir. 1993) (cleaned up). “Where the status quo is a condition of rest, and continuing to rest will cause irreparable harm, the Court may enter a mandatory preliminary injunction.” See *Chisano v. Newton*, No. 4:23-CV-3133, 2024 U.S. Dist. LEXIS 84293, at *8 (D. Neb. May 9, 2024) (citing *Ferry-Morse Seed Co. v. Food Corn, Inc.*, 729 F.2d 589 (8th Cir. 1984)).

“[T]he burden of establishing the propriety of an injunction is on the movant.” *Turtle Island Foods, SPC v. Thompson*, 992 F.3d 694, 699 (8th Cir. 2021) (quoting *Watkins Inc. v. Lewis*, 346 F.3d 841, 844 (8th Cir. 2003)). As the Supreme Court has succinctly stated: “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter*, 555 U.S. at 20; see *Dataphase Sys., Inc. v. C.L. Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. [*665] 1981) (en banc). The movant must show that “irreparable injury is likely in the absence of an injunction, not merely a “possibility” of irreparable harm before a decision on the merits can be rendered. *Id.* The Eighth Circuit has stated

that "[w]hile no single factor is determinative, the probability of success factor is the most significant." *Carson v. Simon*, 978 F.3d 1051, 1059 (8th Cir. 2020) (cleaned up).

V. ARGUMENT

Petitioner meets all requirements for the requested TRO and preliminary injunctive relief. In determining whether to grant a TRO/preliminary injunction, courts consider: (1) the likelihood of the movant's success on the merits; (2) the threat of irreparable harm to the movant absent relief; (3) the balance of equities (harm to movant versus harm to the government/non-movant); and (4) the public interest. Each of these factors favors Petitioner's request.

A. Likelihood of Success on the Merits

Applying the factors for set forth in *Muse*, Petitioner is highly likely to succeed on the merits of his due process claim. 409 F. Supp. 3d 707 (D. Minn. 2018). As explained in detail in the Petition, every relevant factor identified by courts in this District demonstrates that Petitioner's detention has become unreasonably prolonged and unconstitutional absent a bond hearing. *First*, courts consider the length of detention. Petitioner has been jailed for well over a year, far longer than the 8-month or 12-month detentions that D. Minn. courts have already deemed excessive. See *Muse*, 409 F. Supp. 3d at 716-18; *Daciann D.B.*, 2023 U.S. Dist. LEXIS 202472, at *2-4. *Second*, courts consider how long the detention is likely to continue in the absence of judicial relief. His custody is likely to continue indefinitely while immigration proceedings are ongoing. His proceedings have been remanded for further analysis and those determinations are subject to appeal and Circuit Court review. These judicial proceedings could take years longer. *Third*, courts consider the conditions of the alien's detention. He is held in jail-like conditions indistinguishable from criminal incarceration. *Fourth*, courts consider the nature and extent of any delays in the removal proceedings caused by the alien. He has not significantly delayed his case. *Fifth*, courts

consider the nature and extent of any delays in the removal proceedings caused by the government. Here, the government's appeal after being granted relief from removal and the Board's remand have protracted the proceedings. *Finally*, courts consider the likelihood that the proceedings will culminate in removal from the United States. This is the substantial question whether the Petitioner will ever be removed, given that an IJ granted him protection and the government has not demonstrated that removal can occur in the foreseeable future. Under these circumstances, longstanding due process principles and on-point District cases establish that Petitioner is entitled to relief. *See Muse*, 409 F. Supp. 3d at 719 (ordering bond hearing for 14-month detainee; "continuing to detain [him] without affording him a bond hearing would violate his rights under the Due Process Clause"); *Daciann D.B.*, 2023 U.S. Dist. LEXIS 202472, at *2 (granting habeas petition in part and requiring bond hearing for detainee held ~8.5 months); *Chuol P.M.*, 2022 U.S. Dist. LEXIS 112653, at *9-10 (holding continued detention unreasonable when removal not significantly likely, and ordering relief). Petitioner's case for a bond hearing, or release, is at least as strong – indeed stronger – than those in the cited cases. Accordingly, Petitioner has a well-founded likelihood of success on the merits of his claim that his Fifth Amendment due process rights are being violated by the government's refusal to provide a bond hearing.

B. Irreparable Harm

Absent a TRO and preliminary injunction, Petitioner will suffer irreparable harm. Every additional day that Petitioner spends in unjustified detention is a day of freedom he can never recover. Courts recognize that the loss of liberty constitutes irreparable harm in the context of prolonged civil detention. *See Daciann D.B.*, 2023 U.S. Dist. LEXIS 202472, at *1 (noting substantial private liberty interest at stake in immigration detention). Petitioner has been deprived of his freedom for 16 months without due process; this ongoing constitutional injury cannot be

remedied by monetary damages or later relief – it is by definition irreparable each day it continues. Moreover, there is a specific risk of irreparable harm if Petitioner were to be transferred out of this District. ICE has the authority to transfer immigration detainees between facilities, including to out-of-state locations, at any time. If Petitioner is moved outside the District of Minnesota, two serious harms may occur: (a) this Court’s jurisdiction over the Petition could be challenged or effectively defeated, since a habeas petition is traditionally directed to the immediate custodian in the district of confinement, which could delay or thwart Petitioner’s ability to obtain relief; and (b) Petitioner’s access to his counsel and to this Court would be impeded, making it significantly harder for him to pursue his claim. A transfer could thus moot or at least complicate the very proceedings meant to vindicate Petitioner’s constitutional rights. Courts have enjoined transfers in similar cases to preserve their jurisdiction and prevent interference with the litigation. Petitioner faces imminent and irreparable injury in the form of continued unconstitutional detention and possible loss of the forum if a TRO is not granted.

C. Balance of Equities

The balance of hardships tips decisively in Petitioner’s favor. Petitioner’s interest in liberty and due process is paramount – he is suffering a grave harm by being jailed without cause. In contrast, the government will not be significantly harmed by the requested relief. Maintaining Petitioner in the District, rather than transferring him elsewhere, imposes at most an administrative inconvenience on ICE, if they had any plans to move him. Such an inconvenience is minimal when weighed against Petitioner’s fundamental right to be free from unlawful detention. Likewise, holding a bond hearing within 14 days, or releasing Petitioner, will not prejudice the government’s ultimate case in removal proceedings. If the government truly believes Petitioner is a danger or flight risk, it will have the opportunity at the bond hearing to make that case. If it cannot do so

with clear and convincing evidence, then Petitioner's release is appropriate – and the government's only "harm" is that it must tolerate Petitioner's freedom under conditions, which is a result mandated by the Constitution. On the other hand, if no injunction issues, Petitioner will remain in custody indefinitely, regardless of whether his detention is actually necessary. That asymmetry of harms favors Petitioner. In similar cases, courts have found that the government's general interest in detaining removable noncitizens does not outweigh the individual's interest in freedom when detention becomes unreasonably prolonged. *See Muse*, 409 F. Supp. 3d at 717 ("Such a [bond] hearing will protect both [the detainee's] rights and the government's legitimate interest in detaining a removable alien when necessary..."). Requiring a bond hearing simply ensures that the government's interest is achieved in a lawful manner and that detention is not arbitrary. Thus, the balance of equities supports injunctive relief.

D. Public Interest

The public interest is always served by upholding the Constitution and ensuring that government detentions accord with due process. There is a strong public interest in not allowing the Executive Branch to imprison individuals for lengthy periods without basic procedural safeguards. Conversely, the public has little interest in the unlawful or needless detention of community members. If Petitioner does not pose a significant flight risk or danger (as an IJ initially determined when granting him protection from removal), then the public is not served by his continued incarceration at taxpayer expense. And if the government believes he does pose risks, a prompt hearing will allow a neutral adjudicator to evaluate those concerns. By granting the requested TRO/injunction, the Court will reinforce the fundamental value that constitutional rights must be respected, which is a benefit to the public at large. Furthermore, ensuring Petitioner remains within this District for the duration of the case promotes judicial efficiency and respects

the jurisdiction of the Court – also in the public interest. In short, the public interest favors judicial intervention to correct an ongoing due process violation.

E. No Bond Required

Petitioner respectfully requests that no security bond be required under Federal Rule of Civil Procedure 65(c) for the issuance of a TRO or preliminary injunction. This case involves the vindication of constitutional rights and there is no monetary injury to the government that would result from the relief sought. Petitioner is indigent and detained; any bond requirement would effectively deny him access to injunctive relief. Courts have discretion to waive the bond requirement in public interest litigation or where the balance of equities overwhelmingly favors the movant.

For the foregoing reasons, Petitioner has satisfied all criteria for temporary and preliminary injunctive relief.

VI. RELIEF REQUESTED

Petitioner respectfully asks that this Court:

- A. Immediately ISSUE a Temporary Restraining Order enjoining Respondent, its officers, agents, employees, and all persons acting in concert with them from transferring Petitioner out of the District of Minnesota pending resolution of this case, and directing Respondent to provide Petitioner with an individualized bond hearing within 14 days of the Court's Order (with the conditions that the government bears the burden at that hearing to prove by clear and convincing evidence that Petitioner is a flight risk or danger, as detailed above). The TRO should remain in effect until such bond hearing is conducted and a determination is made, or until further order of the Court.

- B. Upon expiration of the TRO, ISSUE a Preliminary Injunction to the same effect, maintaining the prohibition on Petitioner's transfer and mandating a bond hearing by a date certain (14 days from the issuance of the TRO, if not already held), unless Petitioner has by then been granted the requested hearing and/or released pursuant to the TRO.
- C. Alternatively, if the Court reaches the merits of the Petition during the TRO/preliminary injunction stage, order Petitioner's immediate release or other appropriate relief consistent with the Petition.
- D. Grant such other and further relief as the Court deems just and proper, including any necessary orders to ensure Petitioner is not removed from this Court's jurisdiction and that his right to a prompt due process hearing is protected.

Dated: October 31, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE AND AFFIDAVIT OF

I hereby certify under the penalty of perjury that on October 31, 2025, service of the foregoing has been made on counsel of record through the Court's ECF system. We have contacted the United States Office for the District of Minnesota and informed the civil division of the forthcoming motion

/s/ Youssef Malouche