

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

FARUK ATIK ADIR,

Petitioner,

v.

RAFAEL VERGARA, Warden of Adams
County Correctional Center, et al.

Respondents.

Civil Action No.: 5:25-cv-123-DCB-BWR

PETITIONER’S MOTION FOR ORDER TO SHOW CAUSE

Petitioner Faruk Atik Adir has been detained by U.S. Immigration and Customs Enforcement (“ICE”) for nearly ten months and with a final order of removal since June 5, 2025. Respondents are continuing to detain Mr. Adir in ICE custody despite the fact that an Immigration Judge granted him withholding of removal to his native Turkey, and Respondents are thus legally barred from deporting him there. Because Mr. Adir is detained pursuant to 8 U.S.C. § 1231(a), and his removal is not significantly likely in the reasonably foreseeable future, his ongoing detention violates the statute and is no longer constitutional. He should be released from detention. *See generally* ECF No. 1 (Petition for Writ of Habeas Corpus).

Absent intervention from this Court, the government will continue to violate § 1231(a) and Mr. Adir’s constitutional right to due process. In his Petition, Mr. Adir asserts that his prolonged post-removal-order detention violates 8 U.S.C. § 1231(a)(6) under the framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), or alternatively, that it has become unconstitutionally prolonged under the U.S. Constitution’s Fifth Amendment Due Process Clause. He seeks release from detention. Therefore, pursuant to 28 U.S.C. § 2243, Mr. Adir respectfully requests that the

Court issue an order requiring Respondents to show cause as to why his Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 should not be granted.

28 U.S.C. § 2243 provides that “[a] court, justice or judge entering a writ of habeas corpus shall *forthwith* award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243 (emphasis added). The federal habeas statutes, 28 U.S.C. §§ 2241 *et seq.*, call for a “swift, flexible, and summary” judicial inquiry into the legality of an individual’s detention. *Preiser v. Rodriguez*, 411 U.S. 475, 495 (1973) (citing 28 U.S.C. § 2243).

Section 2243 mandates that the writ or order to show cause “shall be returned *within three days* unless for good cause additional time, not exceeding twenty days, is allowed.” (emphasis added). Section 2243 further requires the court to hold a hearing on the writ or order to show cause “*not more than five days* after the return unless for good cause additional time is allowed.” (emphasis added). Finally, § 2243 provides that the court “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” At every stage in the proceedings, courts hearing habeas cases should administer the writ “with the initiative and flexibility essential to [e]nsure that miscarriages of justice within its reach are surfaced and corrected.” *Harris v. Nelson*, 394 U.S. 286, 291 (1969).

Pursuant to 28 U.S.C. § 2243, and in light of the facts that (1) Mr. Adir has had a final removal order since June 5, 2025 and cannot lawfully be removed to his country of origin, Turkey, pursuant to an Immigration Judge’s order, and (2) has been detained by Respondents for nearly ten months, since on or about January 10, 2025, and (3) without any indication that Respondents are any closer to deporting him, Mr. Adir respectfully requests that the Court immediately issue

an order requiring Respondents to show cause. Mr. Adir further requests pursuant to 28 U.S.C. § 2243 that the Court require Respondents to file a return within three days of the Court's order, showing cause, if any, why the writ of habeas corpus should not be granted, that Petitioner be afforded one week to file a response to Respondents' return, and that if the Court determines a hearing is necessary, the Court schedule a hearing within a week after Petitioner's response is due.

Dated: November 5, 2025

Respectfully submitted,

s/ Korbin Felder

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**pro hac vice application forthcoming*

Pro Bono Counsel for Petitioner

Certificate of Service

I hereby certify that on November 5, 2025, I personally provided a copy to the U.S. Attorney's Office for the Southern District of Mississippi via electronic mail.

Dated: November 5, 2025

/s/ D. Korbin Felder