

**FILED**  
NOV 05 2025

UNITED STATES DISTRICT COURT  
FOR THE District of Kansas By: [Signature] Clerk, U.S. District Court  
Deputy Clerk

Mohammad A. Bin Nuhussein  
Petitioner,  
v.  
Pamela Bondi, ATTORNEY  
GENERAL;  
Kristi Noem,  
SECRETARY OF THE DEPARTMENT  
OF HOMELAND SECURITY;  
Samuel Olson,  
U.S. ICE FIELD OFFICE DIRECTOR FOR  
THE Chicago FIELD OFFICE,  
and WARDEN OF IMMIGRATION  
DETENTION FACILITY,  
Respondents.

Civil Action No. 25-3240-JWL

**PETITION FOR A WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

Petitioner, Mohammad A. Bin Nuhussein hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

**CUSTODY**

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the

FCI Leavenworth in  
Leavenworth, Kansas 66048

Petitioner is under the direct control of Respondents and their agents.

#### JURISDICTION

2. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

3. This Court has jurisdiction under 28 U.S.C. § 2241; art. I § 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

#### VENUE

5. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493 - 500 (1973), venue lies in the United States District Court for the

District of Kansas, the judicial district in which Petitioner resides.

#### PARTIES

6. Petitioner is a native and citizen of Burma (Myanmar). Petitioner was first taken into ICE custody on 12-24-24, and has remained in ICE custody continuously since that date. Petitioner was ordered removed on 04-24-2025. The Immigration Judge granted the Petitioner "Deferral of Removal" under (CAT) on 04/24/25

7. Respondent Pamela Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, Pamela Bondi has ultimate custodial authority over Petitioner.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Kristi Noem is the legal custodian of Petitioner.

9. Respondent Samuel Olson is the Field Office Director of the Chicago Field Office of ICE and is Petitioner's immediate custodian. See Vásquez v. Reno, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

10. Respondent Warden of FCI Leavenworth, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

#### FACTUAL ALLEGATIONS

11. Petitioner, Mohammad Nurhusein is a native and citizen of Burma (Myanmar). Petitioner has been in ICE custody since 12/24/2024. An Immigration Judge ordered the Petitioner removed on 04/24/2025. Immigration Judge Granted "Deferral of Removal".

12. Petitioner entered the United States legally and became a Permanent Resident on 07/29/13. Petitioner had a final Order of Removal after being convicted for a Felony on

13. The Petitioner was accused in the state of Wisconsin for the next crime(s):

a) Robbery with Use of force (Class "E" Felony)

b) 2<sup>nd</sup> Degree Recklessly Endangering Safety (Class "G" Felony)  
Combined, Convicted to 3 years 6 months in Prison

14. After serving 8 months in Milwaukee County Jail in Milwaukee Wisconsin, the Petitioner had a Hold/ Arrest Warrant with ICE in order to be removed from

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15. To date, however, ICE has been unable to remove Petitioner to Burma (Myanmar) or any other country. The petitioner, citizen of Burma (Myanmar) cannot be deported to his country of citizenship or birth, because an Immigration Judge granted the Petitioner "Deferral of Removal" under Convention Against Torture (CAT) on 04/24/2025 and the Petitioner is not a citizen of any other country.

16. Petitioner has cooperated fully with all efforts by ICE to remove him from the United States. Petitioner has answered any and all questions asked by ICE. Petitioner was never served with any documents to sign. This includes travel document requests.

17. Petitioner's custody status was first reviewed on N/A.  
On N/A, Petitioner was served with a written decision ordering his/her continued detention. \*Petitioner was never served with any notice of his "Continued Detention."

18. On N/A, Petitioner was served with a notice transferring authority over his/her custody status to ICE Headquarters Post-Order Detention Unit ("HQPDU"). See attached memorandum with additional specific facts.

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#### LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. In Zadvydas v. Davis, 533 U.S. 678 (2001), the Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. Id. at 702. In Clark v. Martinez, 543 U.S. 371 (2005), the Supreme Court held that its ruling in Zadvydas applies equally to inadmissible aliens. Department of Homeland Security administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(b)(2)(ii).

20. Petitioner was ordered removed on 04/24/2025, and the removal order became final on 04/24/2025. Therefore, the six-month presumptively reasonable removal period for Petitioner ended on 10/24/2025.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in Zadvydas. The six-month presumptively reasonable period for removal efforts has expired. Petitioner still has not been removed, and Petitioner continues to languish in detention. Petitioner's removal to Burma (Myanmar) or any other country is not significantly likely to occur in the reasonably foreseeable future. The Supreme Court held in Zadvydas and Martinez that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

23. Petitioner re-alleges and incorporates by reference paragraphs 1 through 22 above.

24. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

25. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling

government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. Zadvydus recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an alien is only six months. Petitioner has already been detained in excess of six months and Petitioner's removal is not significantly likely to occur in the reasonably foreseeable future.

### COUNT THREE

#### PROCEDURAL DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process.

Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in

Place for the petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates "Zadvydas"

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Mohammed A. Bin Nor Hussein  
Petitioner

10-31-25  
Date executed



Signature: ~~MMA~~  
FCI Leavenworth  
P.O. Box 1000  
Leavenworth, KS 66048