

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

JOEL TEMBENG MUKONG,	)	
	)	Case No. 25-5352
Petitioner,	)	
	)	<b>PETITION FOR WRIT OF</b>
v.	)	<b>HABEAS CORPUS</b>
	)	
MARTIN FRINK, Warden, Houston	)	
Contract Detention Facility, BRET	)	
BRADFORD, Houston Field Office	)	
Director, TODD LYONS, Director, U.S.	)	
Immigrations and Customs Enforcement,	)	
and KRISTI NOEM, U.S. Secretary of	)	
Homeland Security,	)	
	)	
Respondents.	)	
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**INTRODUCTION**

1. Petitioner Joel Tembeng Mukon is a Cameroonian national with an order for withholding of removal under the Convention Against Torture (“CAT”).
2. Petitioner’s final administrative order of removal was served on December 20, 2024 and his CAT application was granted on July 7, 2025. Both decisions are administratively final. The 90-day removal period provided by 8 U.S.C. § 1231(a) has passed and Petitioner remains in detention in spite of his removal not being reasonably foreseeable.
3. Accordingly, to vindicate Petitioner’s constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

4. Petitioner asks this Court to find that his detention is unlawful and order his release.

### **JURISDICTION**

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
6. Venue is proper because Petitioner is detained in Houston, Texas, and on information and belief is detained in the Southern District of Texas.

### **THE PARTIES**

7. The Petitioner, Joel Tembeng Mukong, is a detained noncitizen currently being held in federal custody.
8. Respondent Bret Bradford is the Houston Field Office Director for U.S. Immigration and Customs Enforcement (“ICE”) and is Petitioner’s legal custodian.
9. Respondent Todd Lyons is the Director for U.S. Immigration and Customs Enforcement.
10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”).
11. Respondent Martin Frink is the Warden of the Houston Contract Detention Facility and is Petitioner’s immediate physical custodian.
12. All Respondents are named in their official capacities.

## **RELEVANT LEGAL DOCTRINES**

### *Final Administrative Orders of Removal*

13. The Immigration and Nationality Act allows for administrative orders of removal to be entered against noncitizens who are not lawful permanent residents and who are removable for having been convicted of an aggravated felony. 8 U.S.C. § 1223(b).

14. A final administrative order of removal (“FARO”) may not be executed for fourteen calendar days in order to allow the noncitizen to seek judicial review. 8 U.S.C. § 1223(b)(3).

15. Although execution of the order is paused for fourteen days, the FARO becomes final immediately upon issuance. *Riley v. Bondi*, 606 U.S. 259, 267 (2025).

16. The subject of a final administrative order may still seek withholding of removal and CAT relief.

### *Withholding of Removal Under CAT*

17. The Convention Against Torture (“CAT”) prohibits the government from removing a noncitizen to a country where they are more likely than not to be tortured by or with the acquiescence of state actors. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U. N. T. S. 113; 8 C.F.R. §§

208.16(c); 208.18(a).

18. To receive a grant of withholding of removal under CAT, a noncitizen must prove that “(1) it is more likely than not that the alien will be tortured upon return to [their] homeland, and (2) there is sufficient state action involved in that torture.” *Rangel v. Garland*, 100 F.4th 599, 609 (5th Cir. 2024)(internal quotations omitted).

19. Once granted withholding of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021); 8 C.F.R. § 208.22.

20. The decision to grant or deny withholding of removal is distinct from the removal order itself and an order under the “CAT is not a final order of removal and does not affect the validity of a previously issued order of removal or render that order non-final.” *Riley v. Bondi*, 606 U.S. 259, 269 (2025).

21. Although a noncitizen granted withholding of removal cannot be removed to the country for which removal is withheld, they may be removed to a third country. 8 C.F.R. § 208.16(f).

### Third Country Removal

22. A noncitizen with an order of withholding of removal to a particular country

may only be removed to another country upon receiving notice and associated due process, including having an opportunity to apply for protection from removal to that third country. *See* 8 U.S.C. § 1231(b)(3)(A).

23. An individual with an order of withholding of removal to a particular country may also not be removed to another country with the intent or prospect of “chain refoulement”—i.e. that they will be subsequently sent to the country for which they have an order of withholding of removal. *See* 8 C.F.R. § 1208.18(a)(1).

24. Federal law places restrictions on removal of aliens to countries to which they have no connection, or a country to where their “life or freedom would be threatened.” 8 U.S.C. § 1231(b)(3)(A); *see also Jama v. Immigr. & Customs Enf’t*, 543 U.S. 335, 348 (2005).

25. The CAT also prohibits refoulment, which includes chain refoulement—where an individual will be sent to a country which will, in turn, send him to another country where he is more likely than not to be tortured.

#### Detention Beyond Removal Period

26. Under 8 U.S.C. § 1231(a), the government may detain a noncitizen for removal only during the 90-day “removal period,” which begins when the removal order becomes administratively final. 8 U.S.C. § 1231(a)(1)(A)-(B)(i).

27. This period may be extended if the noncitizen fails or refuses to make timely application in good faith for travel or other documents necessary to their departure or conspires or acts to prevent their removal. 8 U.S.C. § 1231(a)(1)(C). It may also be extended if the noncitizen is removable for certain criminal offenses and a determination is made that they are a danger to the community or unlikely to comply with the order of removal. 8 U.S.C. § 1231(a)(6).

28. The Supreme Court has recognized a constitutional limitation on post-removal-period detention: such detention is permissible only when there is a “significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

29. Although *Zadvydas* contemplated a presumptive six-month period in which post-order detention might be constitutionally permissible, that presumption is subject to rebuttal. *Id.* at 699; see also *Villanueva v. Tate*, 2025 WL 2774610, at \*10 (“[T]he presumption of constitutionality during that six-month period is rebuttable.”).

### **FACTS**

30. Petitioner is a citizen and national of Cameroon who was issued a FARO on December 20, 2024. Exhibit 4—Final Administrative Order of Removal.

31. He claimed a fear of return to his home country and had a “reasonable fear”

interview with an asylum officer on March 18, 2025. Exhibit 5—Negative Reasonable Fear Finding.

32. The asylum officer found Petitioner did not have a reasonable fear of return to Cameroon but an Immigration Judge (“IJ”) overturned that finding and allowed him to apply for relief in a “withholding-only” proceeding. Exhibit 6—IJ Reasonable Fear Decision.

33. In withholding-only proceedings Petitioner was granted an order for withholding of removal under CAT, based on the risk that he would be tortured in Cameroon. Exhibit 7—Removal and Withholding Order.

34. ICE did not appeal the order granting Petitioner withholding of removal.

35. Petitioner has remained in ICE custody since his withholding of removal application was granted. Exhibit 1—Sworn Declaration of Joel Tembeng Mukong.

36. Petitioner has at all times complied with any effort to effectuate his removal and has never been asked by ICE to take any specific actions to obtain a travel document from any third country. Exhibit 1, *supra*.

37. ICE has not conducted a custody review or served the results of any custody review on Petitioner. Exhibit 1, *supra*.

38. Petitioner is currently in custody in the Southern District of Texas, and one or more of the Respondents is his immediate custodian. Exhibit 8—Detention

Information.

39. On information and belief, Petitioner's removal is not likely in the reasonable, foreseeable future as ICE has not obtained an agreement with or a travel document for a third country and is unlikely to be able to do so.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Unlawful Detention Beyond Removal Period**

40. Petitioner incorporates paragraphs 1-39 by reference.

41. Under 8 U.S.C. § 1231(a), the government may detain a noncitizen for removal only during the 90-day "removal period," which begins when the removal order becomes administratively final. 8 U.S.C. § 1231(a)(1)(A)-(B)(i). This period may be extended under circumstances inapplicable here.

42. The Supreme Court has recognized a constitutional limitation on post-removal-period detention: such detention is permissible only when there is a "significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

43. Petitioner's removal order became final on December 20, 2024 and his 90-day removal period ended on March 20, 2025. His 180-day *Zadvydas* presumptively reasonable period expired June 18, 2025.

44. Even if Petitioner's removal period is considered to start from the time his withholding order became final, he is still outside the 90-day removal period.

45.If Respondents were to designate a third country, Petitioner would be entitled to apply for withholding of removal or protection from refoulement under, among other things, the Convention Against Torture with respect to that country, and those proceedings could further delay any potential removal.

46.Petitioner has established far more than a “good reason to believe” that there is no significant likelihood of his removal in the reasonably foreseeable future as (1) he cannot legally be removed to Cameroon; (2) no other country has agreed to accept him; and (3) even if such a country were identified, Petitioner would be entitled to apply for protection from removal to that country, including on the basis that the country would send him to Cameroon, a process that would take many months if not years to complete.

47.Under *Zadvydas*, Respondents cannot detain Petitioner indefinitely while they search for a country that might accept him or while they pursue lengthy legal proceedings to try to overcome his withholding protection. Such detention violates both the statutory limitations of 8 U.S.C. § 1231(a)(6) and his constitutional due process rights.

48.As relief, Petitioner requests an order from this Court immediately releasing him from Respondents’ custody and placing him under an order of supervision pursuant to 8 U.S.C.§ 1231(a)(3).

## COUNT TWO

### Third Country Removal Without Opportunity to Seek Protection

49. Petitioner incorporates paragraphs 1-48 by reference.
50. The Convention Against Torture, as implemented in U.S. law, prohibits Respondents from removing an individual to any country where such individual is more likely than not to face torture by or at the acquiescence of the government. *See* Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105-277, § 2242, 112 Stat. 2681, 2681-822 (1998) (codified at 8 U.S.C. § 1231 note); 8 C.F.R. §§ 1208.16(c), 1208.18. This prohibition extends to chain refoulement—the practice of deporting someone to a country which will in turn deport that person to be tortured elsewhere. *See* 8 C.F.R. § 1208.18(a)(1).
51. For an individual with an order of withholding of removal to a particular country, like Petitioner, Respondents can only remove him to another country if he first receives notice and an opportunity to apply for protection from removal to that third country. *See* 8 U.S.C. § 1231(b)(3)(A).
52. Petitioner has no claim to citizenship or permanent residence in any country other than Cameroon. Accordingly, any third country to which he might be deported would, in turn, likely deport him to Cameroon, where it has already been held that he faces a substantial risk of torture.
53. Respondents have communicated to Petitioner that they intend to remove him

to a third country but have not yet determined which country.

54. Petitioner could face persecution or torture if removed directly to various other countries, including but not limited to countries with notorious human rights abuses like Libya, South Sudan, and Eritrea. Without knowing which country Respondents intend to try to remove him to, Petitioner cannot prepare or file an application for protection.

55. As relief, Petitioner request an order from this Court that Respondents may not remove Petitioner from the continental United States without first providing him and his counsel with written notice of the specific country they intend to remove him to, and a reasonable period of time—which Petitioner respectfully suggests is at least fifteen days—to file an application for relief under, among other things, the withholding of removal statute and the Convention Against Torture with respect to such country.

56. Additionally, as access to counsel is critical to preparing any potential application for relief, Petitioner asks that such order be further narrowed to prohibiting Respondents from removing him or relocating him to a detention facility outside the Southern District of Texas.

### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

- (2) Order that Petitioner shall not be transferred outside the Southern District of Texas;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days and setting an immediate hearing.
- (4) Declare that Petitioner's detention is unconstitutional.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (6) Issue an order that Petitioner be provided notice and an opportunity to request protection from removal to any third country that the Respondents may identify.
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Date: November 7, 2025

/s/ Amanda Waterhouse  
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INDEX OF EXHIBITS

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- Exhibit 3—Notice of Intent to Issue a Final Administrative Order of Removal
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- Exhibit 5—Negative Reasonable Fear Finding
- Exhibit 6—IJ Reasonable Fear Decision
- Exhibit 7—Removal and Withholding Order
- Exhibit 8—Detention Information