

1 **JOHN GATWICH DAK**
2 **ALIEN NO:** 
3 **FLORENCE CORRECTIONAL COMPLEX**
4 **P.O BOX 6300**
5 **FLORENCE, AZ 85132**

FILED LODGED
 RECEIVED COPY
NOV 12 2025
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY _____ DEPUTY

6 **PRO SE**

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF ARIZONA**

9 John Gatwich Dak,

CV25-04215-PHX-MTL-ESW

10
11 Petitioner,

Case No.

12
13 Vs.

A# 

14 Luis Rosa Jr, Warden, Central Arizona Florence
15 Correctional Complex;
16 John Cantu, Director, ICE Enforcement and Removal
17 Operations, Phoenix Field Office;
18 N. Martinez, Deportation Officer, United States
19 Immigration and Custom Enforcement, Florence,
20 Arizona;
21 ICE Field Office, Phoenix, Arizona;
22 Todd M. Lyons, Acting Director, United States
23 Immigration and Customs Enforcement;
24 Kristi Noem, Secretary, U.S. Department of
25 Homeland Security;
26 Pamela Bondi, Attorney General, U.S. Department of
27 Justice; and The U.S. Attorney for the District of
28 Arizona,.

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

29 Respondents.

DETAINED

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

31
32 Petitioner John Gatwich Dak ("Mr Dak" or "Petitioner") is a native and citizen of South Sudan.
Petitioner John Gatwich Dak petitions this court for a writ of habeas corpus to remedy Petitioner's
indefinite detention by Respondents.

CUSTODY STATEMENT

Petitioner is currently detained at the Florence Correctional Center in Florence, Arizona, in the custody of ICE. He has been detained since March 26th, 2025. This Court has jurisdiction under 28 U.S.C. § 2241.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction and may grant relief under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 1331 (federal question). This Court also has jurisdiction to hear this case under the Suspension Clause of Article I of the United States Constitution. *INS v. St Cyr*, 533 U.S. 289 (2001).

2. Because Petitioner challenges his custody, jurisdiction is proper in this court. While the courts of appeals have jurisdiction to review removal orders through petitions for review, *see* 8 U.S.C §§ 1252(a)(1) and (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear petitions by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075-76 (9TH Cir. 2006).

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

4. Venue is proper in the District of Arizona pursuant to 28 U.S.C §§ 1391(b) and (e) because a substantial part of the events or omissions giving rise to these claims occurred in this district. All material decisions have been made at the Phoenix Field Office of Immigration and Customs Enforcement (ICE), which is located in this judicial district.

5. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 et seq.

6. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

7. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C, 2242 because

1 at least one Respondent is in this District, Petitioner has been taken into custody and is being detained in
2 this District, Petitioner's immediate physical custodian is located in this District, and a substantial part of
3 the events giving rise to the claims in this action took place in this District. See generally *Rumsfeld v.*
4 *Padilla*, 542 U.S. 426, 434 (2004) (“the proper respondent to a habeas petition is ‘the person who has
5 custody over the petitioner”) (citing 28 U.S.C. 2242).
6

7 8. Importantly, if venue is proper at the time of filing, the District Court will retain
8 jurisdiction even if ICE transfers a petitioner to another district. See *Ex Parte Endo*, 323 U.S. 283, 304-05
9 (1944) (rejecting mootness after transfer because “there is no suggestion that there is no one within the
10 jurisdiction of the District Court who is responsible for the detention of appellant and who would be an
11 appropriate respondent.”); *Anariba v. Dir. Hudson City Corr. Ctr.*, 17 F.4th 434, 446 (3d Cir. 2021)
12 (*[T]he District Court retained jurisdiction following Argueta’s transfer out of New Jersey because it
13 already had acquired jurisdiction over Argueta’s properly filed habeas petition that named his then-
14 immediate custodian.”).
15
16
17

18 **REQUIREMENTS OF 28 U.S.C § 2243**

19 9. The Court must grant the petition for writ of habeas corpus or issue an order to
20 show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. §
21 2243. If an order to show cause is issued, the Court must require Respondents to file a return “within
22 three days unless for good cause additional time, not exceeding twenty days, is allowed,” *Id.* (emphasis
23 added).
24
25

26 10. Courts have long recognized the significance of the habeas statute in protecting
27 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important
28 writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all
29 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).
30
31
32

PARTIES

1
2
3 11. Petitioner is a noncitizen who is currently detained by Immigration and Customs
4 Enforcement (ICE) at the Florence Correctional Complex. He is in the custody, and under the direct
5 control, of Respondents and their agents.

6 12. Respondent Luis Rosa Jr is the Warden of the Central Arizona of the Florence
7 Correctional Complex, where on information and belief, Petitioner is currently detained. He is a legal
8 custodian of Petitioner and is named in his official capacity.

9
10 13. Respondent John Cantu, Director of ICE Enforcement and Removal Operations, is
11 responsible for Phoenix Field Office of ICE with administrative jurisdiction over Petitioner's immigration
12 case. He is a legal custodian of Petitioner and is named in his official capacity.

13 14. Respondent N. Martinez, Deportation officer of the United States Immigration and
14 Customs Enforcement assigned to Petitioner. She is a legal custodian of Petitioner and is named in her
15 official capacity.

16
17 15. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of
18 Petitioner and is named in his official capacity.

19
20 16. Respondent Kristi Noem is the Secretary of the United States Department of
21 Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

22 17. Respondent Pamela Bondi is the Attorney General of the United States Department
23 of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

24
25
26 **FACTUAL ALLEGATIONS**

27 18. Petitioner John Gatwich Dak was born in South Sudan

28 19. Petitioner entered the United States on April 12, 2005 as a Refugee.

29
30 20. An Immigration Judge ordered Petitioner removed from the United States on
31 August 24th, 2011. Petitioner did not appeal the Immigration Judge's decision to the Board of Immigration

1 Appeals (BIA) and the decision became final.

2 21. Petitioner was taken into custody by Immigration and Customs Enforcement on
3 March 26th, 2025. Petitioner has remained in ICE custody since that date.

4 22. Petitioner received a document titled "Decision to Continue Detention" from ICE
5 on or about June, 2025. Petitioner received a second document titled "Decision to Continue Detention"
6 from ICE on October 8th, 2025. {See Exhibit B}

7 23. Petitioner has cooperated fully with all of ICE's efforts to remove Petitioner since
8 ordered remove on August 24th, 2011. Petitioner has complied fully with all ICE requests and has made
9 no effort to interfere with his removal to South Sudan. Petitioner has not filed any appeal or motion that
10 would delay removal.

11 24. Nonetheless, ICE has been unable to remove Petitioner from the United States
12 since he was ordered removed on August 24th, 2011. Petitioner has now been detained for more than 219
13 days (Seven 7 Months plus) with no significant likelihood of removal in the reasonably foreseeable
14 future.

15
16
17
18
19
20 **LEGAL FRAMEWORK**

21 25. In *Zadvydas v. Davis*, the Supreme Court held that the Immigration statute 8 U.S.C.
22 § 1231(a)(6) does not allow ICE to detain a noncitizen indefinitely while attempting to carry out removal.
23 533 U.S. 678, 689 (2001). Because of the "serious constitutional problem" posed by indefinite detention,
24 the Court read the statute to limit a noncitizen's detention to "a period reasonably necessary to bring about
25 that alien's removal from the United States." *Id.*

26 26. The Court also recognized six months as the "presumptively reasonable period" of
27 post-removal order detention. *Id.* At 701. After six months, once the noncitizen provides "good reason to
28 believe that there is no significant likelihood of removal in the reasonably foreseeable future," the burden
29 shifts to the government to rebut that showing. *Id.* Moreover, "as the period of prior post-removal
30 shifts to the government to rebut that showing. *Id.* Moreover, "as the period of prior post-removal
31

1 confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink.”

2 *Id.*

3
4 27. In *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the Supreme Court held that §
5 1231(a)(6) does not permit indefinite detention and construed the statute to authorize detention only for a
6 period reasonably necessary to effect removal. The Court set six months as a presumptively reasonable
7 period. After that, if removal is not significantly likely in the reasonably foreseeable future, the detainee
8 must be released. See also *Clark v. Martinez*, 543 U.S. 371, 377 (2005). (In Martinez's case, the District
9 Court found that removal was not reasonably foreseeable and ordered that Martinez be released under
10 appropriate conditions. The Ninth Circuit affirmed.)

11
12 28. In *Clark v. Martinez*, the Supreme Court held that its ruling in *Zadvydas* applies
13 equally to noncitizens who have never been admitted to the United States. 543 U.S. 371 (2005).
14
15
16

17 **CLAIM FOR RELIEF**

18 **COUNT I**

19 **VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT**

20
21 29. The foregoing allegations are realleged and incorporated herein.

22 30. Petitioner's continued detention is unlawful and violates 8 U.S.C. § 1231(a)(6) as
23 interpreted by the Supreme Court in *Zadvydas*. The six-month presumptively reasonable period of
24 detention has expired and petitioner has provided good reason to believe that his removal is not
25 significantly likely to occur in the reasonably foreseeable future. Therefore, Respondents lack authority to
26 continue detaining petitioner.
27
28
29
30
31
32

COUNT II

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S
CONSTITUTION**

31. The foregoing allegations are realleged and incorporated herein.

32. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. See generally *Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

33. Petitioners' detention violates the Due Process Clause because it is not rationally related to any immigration purpose; because it is not the least restrictive mechanism for accomplishing any legitimate purpose the government could have in imprisoning Petitioner; and because it lacks statutory authorization.

ARGUMENT

34. Petitioner's detention exceeds the 180days (six months) statutory period under 8 U.S.C § 1231(a)(6) and the ninety-day statutory period under 8 U.S.C. § 1231(a)(1)(A). Removal is not significantly likely in the reasonably foreseeable future because ICE has not been able to remove petitioner since ordered removed on August 24th,2011. Petitioner has now been detained for more than 219days (Seven 7 months plus).

35. Petitioner has met his burden under *Zadvydas*, 533 U.S. At 701, of providing good reason to believe removal is not reasonably foreseeable. The burden thus shifts to the government to rebut with evidence.

36. The government cannot do so here, See *Krajekian v. Cantu*, No. CV-25-02666-PHX-DJH, 2025 WL 5456789, at *3 (D. Ariz. Sept. 5,2025) (granting habeas relief where ICE could not show removal was significantly likely). Because detention has become prolonged and removal is not imminent, continued confinement violates the statute and the Due Process Clause. See *Zadvydas*, 533

1 U.S. at 690.

2 **INCORPORATION OF EXHIBITS**

3 **TABLE OF CONTENTS**

4 EXHIBIT	INDEX OF DOCUMENTATION SUBMITTED	PAGE(S)
5 A	Declaration letter from Petitioner	2
6 B	ICE decision to continue detention for Petitioner on 10/8/2025	1
7 C	ICE Deteinee request form reply by Deportation Officer Martinez on 10/02/2025	1
8 D	ICE Deteinee request form reply by Deportation Officer Martinez on 10/15/2025	1

9 **PRAYER FOR RELIEF**

- 10 a. Assume jurisdiction over this matter;
- 11 b. Order Respondents to show cause why the writ should not be granted within three
- 12 days, and set a hearing on this Petition within three days of the return, as required by 28 U.S.C. § 2243;
- 13 c. Declare that Petitioner's detention violates 8 U.S.C. § 1231 the Due Process Clause
- 14 of the Fifth Amendment;
- 15 d. Issue an order pursuant to 28 U.S.C. § 2243 directing Respondents to show cause
- 16 why the writ of habeas corpus should not be granted;
- 17 e. Grant the writ of habeas corpus and order Petitioner's immediate release from
- 18 custody;
- 19 f. Enjoin Respondents from further detention absent a significant likelihood of
- 20 removal in the reasonably foreseeable future;
- 21 g. Grant any other and further relief as the Court deems just and proper.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Respectfully submitted this 6th day of November, 2025

Signed by: 
JOHN GATWICH DAK
Petitioner, Pro Se.

CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that on November 6th, 2025, Petitioner filed with the United States District Court for the District of Arizona, this Petition for Habeas Corpus. **I, JOHN GATWICH DAK, Pro Se**, do hereby state that I caused a copy of Petition for Habeas Corpus to be served upon the listed individuals below at the indicated addresses via certified U.S. mail (in the event the Court does not issue the summons).

TO: Luis Rosa Jr, Warden
Central Arizona Florence Correctional
Complex
1155 North Pinal Pkwy,
Florence, AZ 85132

John Cantu, Director
ICE Enforcement and Removal Operations,
Phoenix Field Office
2035 N. Central Ave,
Phoenix, AZ 85004

Todd Lyons, Acting Director
U.S. Immigration and Customs
Enforcement
500 12th St. SW
Washington, DC 20536

Kristi Noem, Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528

Pamela Bondi, Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

United States Attorney
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Ave., Suite 1800
Phoenix, AZ 85004-4449

N. Martinez, Deportation Officer
United States Immigration and
Custom Enforcement
3250 N. Pinal Parkway,
Florence, AZ 85132

ICE Field Office
2035 N. Central Avenue,
Phoenix, AZ 85004

Signed by: John

JOHN GATWICH DAK
Petitioner, Pro Se.

EXHIBIT A

DECLARATION OF JOHN GATWICH DAK

I, John Gatwih Dak, hereby declare under penalty of perjury pursuant to the laws of the United States that the following statements are true and correct.

1. My full name is John Gatwih Dak. I was born in South Sudan on ~~XXXXXXXXXX~~
2. I entered the United States of America on April 12, 2005 as a refugee
3. I was placed in ICE custody on March 26, 2025.
4. I have been in ICE custody since then.
5. Right now, I am detained at Central Arizona Florence Correctional Complex.
6. The detention center is located in Florence, Arizona 85132.
7. I have a final order of removal ordered on August 24, 2011 and have been detained for more than Seven (7) months since taken into custody by ICE on March 26, 2025.
8. In my removal proceedings, I applied for no relief and accepted deportation. My removal order became final on August 24, 2011.
9. While in detention, I have had Custody Reviews on the following dates:
 - First 90days Custody review on or about June, 2025
 - Second 180days Custody review on October 8, 2025
10. ICE made the following decisions about my custody reviews
 - First 90days Custody review ~~=====~~ Decision to continue detention
 - Second 180days Custody review ~~=====~~ Decision to continue detention. See Exhibit B
11. I have provided all the information and everything ICE had requested.
12. I have cooperated with ICE to produce my travel documents and signed all the necessary documents given to me by ICE.
13. I have complied fully with all ICE requests and have made no effort to interfere with my removal to South Sudan. I have not filed any appeal or motion that would delay removal.

14. I have asked an ICE officer about my deportation through written forms. See Exhibit C & D
15. ICE is not likely to be able to remove me to my country because my country is not issuing any travel documents since I was ordered removed on August 24, 2011. I have been detained by ICE for more than Seven (7) months (219days plus) with no significant likelihood of removal in the reasonably foreseeable future because my country has refused to issue travel documents nor accept me.
16. Despite my full cooperation with ICE. I have been detained in ICE custody for over Seven (7) months, More than 219days.
17. I have been held for more than Seven (7) months after taken into custody of which my order of removal became final on August 24, 2011.
18. If release I will cooperate and fulfill the conditions ICE establishes.

Signed: John
John Gatwich Dak

Date: 11-06-25

A. Zinsmann

11/06/25

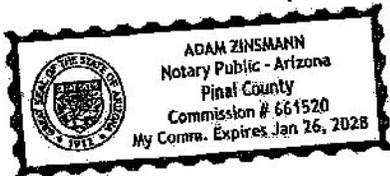


EXHIBIT B

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

DAK, John Gatwich
C/O Immigration and Customs Enforcement
Phoenix Field Office



Decision to Continue Detention

This letter is to inform you that the U.S. Immigration and Customs Enforcement (ICE) has reviewed your custody status and determined that you will not be released from custody at this time. This decision was based on a review of your file record, personal interview and consideration of any information you submitted to ICE reviewing officials and upon review of the factors for consideration set forth at 8 C.F.R. § 241.4(e), (f), and (g).

On April 12, 2005, you were admitted to the United States at Chicago, IL as a Refugee. On August 24, 2011, an Immigration Judge ordered you removed from the United States.

ICE is working to procure a travel document on your behalf. Therefore, you are to remain in ICE custody at this time. In addition, ICE is unable to conclude that the factors set forth at 8 C.F.R. § 241.4(e) have been satisfied.

This decision, however, does not preclude you from bringing forth evidence in the future to demonstrate a good reason why your removal is unlikely. You are advised that pursuant to Section 241(a)(1)(C) of the Immigration and Nationality Act (INA) you must demonstrate that you are making reasonable efforts to comply with the order of removal, and that you are cooperating with ICE efforts to remove you by taking whatever actions ICE requests to affect your removal.

You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 USC § 1253(a).

A handwritten signature in black ink, appearing to read "John Gatwich".

Date: 2025.10.08
09:03:49 -04'00'

Unit Chief - HQ RIO

10/8/2025

Date

ALIEN COPY

EXHIBIT C

Tracking # FCC-25-10-0062

FLORENCE SERVICE PROCESSING CENTER

DETAINEE REQUEST FORM

Date / Fecha: 3/24/25 Unit / Unidad: D.C. Pod / Celda: 110 Bed / Cama: _____

Name / Su Nombre: Dak. Johny

File No.# / Numero de Expediente: ~~XXXXXXXXXX~~ Nationality / Paiz: South Sudan

**** MARK YOUR REQUEST / MARQUE SU SOLICITUD ****



- Speak to Deportation Officer / Hablar con mi Oficial de Deportacion
- Prints, Pictures / Huellas, Fotos
- Additional time in Law Library / Tiempo adicional en la biblioteca de la ley
- Special access call / Acceso especial al teléfono
- Special visit / la visita especial
- Complaint / Queja
- Permission to receive property / Permiso para recibir propiedad
- Other Request / Otra solicitud

Received
OCT 02 2025
DHS/ICE/ERO/FLORENCE

Have you been to court? Yes / Si

Date of Arrival here?

Usted ya fue a su primer corte? No

Fecha de entrada aqui? March 26th

Explain/Explicar: I have been here for more than five months. I have had no review and no update about me what is going on why I am still detained. Please give me some kind of update or answer thank you.

INS USE ONLY

Completed? Yes No

Officer Martinez

Date: 10/2/25

Remarks: case under review

EXHIBIT D

Tracking # FCC-25-10-0387

FLORENCE SERVICE PROCESSING CENTER

DETAINEE REQUEST FORM

Date / Fecha: 10-13 Unit / Unidad: D.C Pod / Celda: 110 Bed / Cama: _____

Name / Su Nombre: DAK John

File No.# / Numero de Expediente: ~~XXXXXXXXXX~~ Nationality / Paiz: South Sudan

**** MARK YOUR REQUEST / MARQUE SU SOLICITUD ****

-  Speak to Deportation Officer / Hablar con mi Oficial de Deportacion
-  Prints, Pictures / Huellas, Fotos
-  Additional time in Law Library / Tiempo adicional en la biblioteca de la ley
-  Special access call / Acceso especial al teléfono
-  Special visit / la visita especial
-  Complaint / Queja
-  Permission to receive property / Permiso para recibir propiedad
-  Other Request / Otra solicitud _____

Received
OCT 15 2025
DHS/ICE/ERO/FLORENCE

Have you been to court? Yes/Si

Date of Arrival here?

Usted ya fue a su primer corte? No

Fecha de entrada aqui? March 26th

Explain/Explicar: my 180 day passed. why am I still in custody. if you can't deport me. I? why hold me? do I qualify for (Habeas corp)?

Completed? Yes No **INS USE ONLY**
Officer Martinez Date: 10/15/25

Remarks: case pending travel documents