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6
7 **UNITED STATES DISTRICT COURT**
DISTRICT OF ARIZONA

8 Syed HAIDER NAJIB,

9 Petitioner,

10 v.

11 John CANTU, in his official capacity, Field
12 Office Director of Phoenix Office of
13 Detention and Removal, U.S. Immigration
and Customs Enforcement; U.S. Department
of Homeland Security;

14 Todd M. LYONS, in his official capacity,
15 Acting Director, Immigration and Customs
Enforcement, U.S. Department of Homeland
16 Security;

17 Kristi NOEM, in her official capacity,
Secretary, U.S. Department of Homeland
18 Security; and

19 Pamela BONDI, in her official capacity,
Attorney General of the United States;

20 Respondents.
21
22
23
24

Case No.:

A 

**PETITION FOR WRIT OF HABEAS
CORPUS**

1 **I. INTRODUCTION**

2 Petitioner Syed Haider Najib (“Petitioner” or “Mr. Haider”) is an Afghan national who
3 has been detained by U.S. Immigration and Customs Enforcement (“ICE”) well beyond the
4 period authorized by law. On March 8, 2018, an Immigration Judge ordered Petitioner removed
5 to Afghanistan but granted withholding of removal.

6 On June 30, 2025, Petitioner was placed into ICE custody. On July 17, 2025, Petitioner
7 was transferred to the U.S. Marshal’s custody. Approximately two weeks later, on or about July
8 30, 2025, Petitioner was returned to ICE custody. More than ninety days have passed since
9 Petitioner was placed into ICE custody, but he remains detained despite the expiration of the
10 statutory removal period.

11 Petitioner’s continued detention violates both the Immigration and Nationality Act, 8
12 U.S.C. § 1231, and the Due Process Clause of the Fifth Amendment. Petitioner seeks release
13 under supervision pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001).

14 **II. JURISDICTION AND VENUE**

15 This Court has subject matter jurisdiction under 28 U.S.C. § 2231 and 28 U.S.C. § 1331.
16 Venue is proper in the District of Arizona because Petitioner is detained within this District in
17 Florence, Arizona. This petition challenges only the legality of continued detention, not the
18 underlying removal order. *See Zadvydas*, 533 U.S. at 688.

19 **III. PARTIES**

20 Petitioner is currently detained in ICE custody at the Florence Correctional Center in
21 Florence, Arizona. He has been detained since June 30, 2025. This Court has jurisdiction under
22 28 U.S.C. § 2241.

23 Respondent John Cantu is the Field Office Director for the Phoenix Field Office,
24 Immigration and Customs Enforcement and Removal Operations (“ICE”). The Phoenix Field

1 Office is responsible for local custody decisions relating to non-citizens charged with being
2 removable from the United States, including the arrest, detention, and custody status of non-
3 citizens. The Phoenix Field Office's area of responsibility includes all of Arizona.

4 Respondent Todd Lyons is the acting director of U.S. Immigration and Customs
5 Enforcement, and he has authority over the actions of John Cantu and ICE in general. Respondent
6 Lyons is a legal custodian of Petitioner.

7 Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS)
8 and has authority over the actions of all other DHS Respondents in this case, as well as all
9 operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with
10 faithfully administering the immigration laws of the United States.

11 Respondent Pamela Bondi is the Attorney General of the United States, and as such has
12 authority over the Department of Justice and is charged with faithfully administering the
13 immigration laws of the United States.

14 This action is commenced against all Respondents in their official capacities.

15 **IV. STATEMENT OF FACTS**

16 Petitioner is a native of Afghanistan. He arrived in the United States with his family as a
17 teenager in 2012. Petitioner and his family were designated refugees by the United Nations High
18 Commissioner for Refugees ("UNHCR") prior to their arrival in the United States. In 2013,
19 Petitioner received lawful permanent resident ("LPR") status in the United States.

20 Petitioner's LPR status was subsequently revoked due to a conviction for possession of
21 marijuana. As a result, on March 8, 2018, Petitioner was ordered removed to Afghanistan but
22 was granted withholding of removal. In 2023, Petitioner was charged with possession of a firearm
23 by an illegal alien and taken into federal custody. On June 30, 2025, Petitioner was transferred
24

1 to ICE custody. On July 17, 2025, Petitioner was briefly transferred to U.S. Marshal custody. On
2 or about July 30, 2025, he was returned to ICE custody.

3 The ninety-day statutory removal period under 8 U.S.C. § 1231(a)(1)(A) expired on
4 October 28, 2025. Petitioner has been in ICE custody for over 136 days total; however, if the
5 Court construes the time period as having restarted when Petitioner was returned to ICE custody,
6 Petitioner has still been detained more than ninety days.

7 Petitioner has complied fully with all ICE requests and has made no effort to interfere
8 with his removal. Petitioner has not filed any appeal or motion that would delay removal. On the
9 contrary, Petitioner has actively requested his removal. *See Exh. A*, Detainee Request Forms.
10 Petitioner's deportation officer advised him that ICE attempted to deport him to Pakistan,
11 Canada, and Mexico, but none of those countries agreed to accept him. The Department of
12 Homeland Security ("DHS") has made no effort to reopen Petitioner's removal proceedings to
13 revoke his withholding of removal to Afghanistan.

14 Petitioner has now been detained for more than 136 days with no significant likelihood
15 of removal in the reasonably foreseeable future.

16 V. LEGAL FRAMEWORK

17 Pursuant to 8 U.S.C. § 1231(a)(1)(A), the government shall remove a noncitizen within
18 ninety days of a final removal order. Detention during that ninety-day period is mandatory. 8
19 U.S.C. § 1231(a)(2). If removal is not effectuated in that time, the statute authorizes release under
20 supervision, except that § 1231(a)(6) permits limited continued detention. In *Zadvydas v. Davis*,
21 533 U.S. 678, 701 (2001), the Supreme Court held that § 1231(a)(6) does not permit indefinite
22 detention and construed the statute to authorize detention only for a period reasonably necessary
23 to effect removal. The Court set six months as a presumptively reasonable period. After that, if
24

1 removal is not significantly likely in the reasonably foreseeable future, the detainee must be
2 released. *See also Clark v. Martinez*, 543 U.S. 371, 377 (2005).

3 **VI. ARGUMENT**

4 Petitioner's detention exceeds the ninety-day statutory period under 8 U.S.C. §
5 1231(a)(1)(A). Removal is not significantly likely in the reasonably foreseeable future.

6 First, Petitioner cannot be removed to his native Afghanistan due to his grant of
7 withholding of removal. DHS has not indicated any intent to reopen Petitioner's removal
8 proceedings to seek to revoke his grant of withholding of removal. In addition, country conditions
9 in Afghanistan have not improved since Petitioner was granted withholding of removal.

10 Second, ICE has been unsuccessful in identifying a third country of removal that would
11 accept Petitioner. Petitioner's deportation officer, Officer R. Jones, verbally advised him that ICE
12 had sought to remove him to Pakistan, Canada, and Mexico, but none of those countries agreed
13 to accept him.

14 Petitioner has met his burden under *Zadvydas*, 533 U.S. at 701, of providing good reason
15 to believe removal is not reasonably foreseeable. The burden therefore shifts to the government
16 to rebut with evidence. The government cannot do so here. *See Krajekian v. Cantu*, No. CV-25-
17 02666-PHX-DJH, 2025 WL 5456789, at *3 (D. Ariz. Sept. 5, 2025) (granting habeas relief where
18 ICE could not show removal was significantly likely). Because detention has become prolonged
19 and removal is not imminent, continued confinement violates the statute and the Due Process
20 Clause. *See Zadvydas*, 533 U.S. at 690.

21 **VII. INCORPORATION OF EXHIBITS**

22 Petitioner incorporates the Detainee Request Forms (Exh. A) and the Notice of Custody
23 Review (Exh. B), which demonstrate Petitioner's cooperation with ICE and ICE's lack of
24 progress in effecting his removal.

1 **VIII. PRAYER FOR RELIEF**

2 Petitioner respectfully requests that this Court:

- 3 1. Assume jurisdiction over this matter;
- 4 2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition
5 should not be granted within three days;
- 6 3. Declare that Petitioner's detention violates 8 U.S.C. § 1231 and the Fifth
7 Amendment's Due Process Clause;
- 8 4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
9 custody;
- 10 5. Issue an Order prohibiting the Respondents from transferring Petitioner from the
11 district without the Court's approval;
- 12 6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
13 on any other basis justified under law; and
- 14 7. Grant any further relief the Court deems just and proper.

15
16 RESPECTFULLY SUBMITTED this 13th day of November 2025.

17
18 SMITH, ALSTON, DARNER & LEE, PLC

19 //s// Spencer C. Lee

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EXHIBIT A

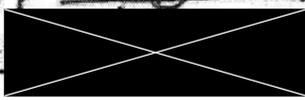
Tracking # FCC-25-08-0337

FLORENCE SERVICE PROCESSING CENTER

DETAINEE REQUEST FORM

Date / Fecha: 9/25 Unit / Unidad: mold Pod / Celda: 105 Bed / Cama: _____

Name / Su Nombre: Syed / ^{Strain} Na Jib

File No.# / Numero de Expediente:  Nationality / Paiz: Afghanistan

**** 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 Received
-  Special visit / la visita especial AUG 12 2025
-  Complaint / Queja DHS/ICE/ERO/FLORENCE
-  Permission to receive property / Permiso para recibir propiedad
-  Other Request / Otra solicitud _____

Have you been to court? Yes / Si
Usted ya fue a su primer corte? No

Date of Arrival here? _____
Fecha de entrada aquí? 8/9/25

Explain/Explicar: is my 90 days Review still in effect??
the one that is supposed to expire on
September 23rd?

INS USE ONLY

Completed? Yes No

Officer Martinez Date: 8/12/25

Remarks: Case still under review

Return completed forms to SLEO daily for inclusion in detainee's detention file.

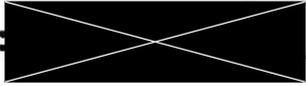
Tracking# FCL.25.10.0039

FLORENCE SERVICE PROCESSING CENTER

DETAINEE REQUEST FORM

Date / Fecha: 30/25 Unit / Unidad: D.C. Pod / Celda: 107 Bed / Cama: _____

Name / Su Nombre: Syed Najib

File No.# / Numero de Expediente:  Nationality / Paiz: Afghanistan

**** 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 01 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 aquí? Jun 30th

Explain/Explicar: this question directed my D.O. Jones according to my I-229 form my 90 day review was (September 27th) I would like to know what's the update?? what's is next??

INS USE ONLY

Completed? Yes No

Officer Carpenter

Date: 10-1-25

Remarks: Your DO will go speak with you

Return completed forms to SDEO daily for inclusion in detainee's detention file.

Tracking # FCL-25-10-0575

FLORENCE SERVICE PROCESSING CENTER

DETAINEE REQUEST FORM

Date / Fecha: 10/21 Unit / Unidad: D.C Pod / Celda: 107 Bed / Cama: _____

Name / Su Nombre: Syed Nasir

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

**** 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 Received
-  Special visit / la visita especial OCT 23 2025
-  Complaint / Queja
-  Permission to receive property / Permiso para recibir propiedad
-  Other Request / Otra solicitud _____

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 aquí? July 30th

Explain/Explicar: this question is direct to my D.O. (Jones) I would like to know it's been hundred and ten days I am here if there's is no deportation so my country and also not accepting why

INS USE ONLY

Completed? Yes No

Officer Carrasco

Date: 10-23-25

Still Detained ??

Remarks: Your case will be reviewed in 10 days.

EXHIBIT B