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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9 Kamel Maklad,

10 Petitioner,

11 vs.

12 Christopher Howard, Acting Warden, Eloy
13 Detention Center;

14 John Cantu, Former Phoenix Field Office
15 Director, U.S Immigration and Customs
Enforcement;

16 Pamela Jo Bondi, Attorney General of the
17 United States; and

18 Kristi Noem, Secretary of Homeland
19 Security,

20 Respondents.

No.

**Petition for a Writ of Habeas Corpus
Under 28 U.S.C. § 2241**

21 **Technical Data**

- 22 1. Mr. Maklad is challenging the validity of his detention in immigration custody. His A-
23 number is 
- 24 2. Mr. Maklad is challenging his continued detention in immigration custody after his was
25 ordered removed to Syria and then granted withholding of removal to Syria.
- 26 3. Mr. Maklad is presently detained at the Eloy Detention Center in Eloy, Arizona. Mr.
27 Maklad has been in custody for eleven months since he was ordered removed from the
28

1 United States. Because he is being detained under the authority of 8 U.S.C. § 1231, there
2 are no administrative remedies available to him to exhaust.

3 **Parties, Jurisdiction, and Venue**

- 4 4. Petitioner Kamel Maklad is a citizen of Syria. He fled Syria in 2011 because of his pacifist
5 religious philosophy, and settled in Venezuela. He later left Venezuela and sought asylum
6 in the United States. On November 27, 2024, he was granted withholding of removal and
7 protection under the Convention Against Torture, such that he cannot be removed to
8 Syria. He remains in detention at the Eloy Detention Center.
- 9 5. Christopher Howard is the Acting Warden of the Eloy Detention Center. As such, he is
10 the immediate physical custodian of Mr. Maklad, and thus a proper respondent in this
11 matter. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).
- 12 6. Respondent John Cantu is the Former Phoenix Field Office Director for U.S.
13 Immigration and Customs Enforcement. He was removed from this position on October
14 28, 2025. No replacement has been named, and no acting Field Office Director is publicly
15 known. Mr. Cantu—or his successor under Fed. R. Civ. P. 25(d)—is responsible for Mr.
16 Ly’s detention, and thus a proper respondent in this matter.
- 17 7. Respondents Pamela Jo Bondi and Kristi Noem are, respectively, the Attorney General of
18 the United States and the Secretary of Homeland Security. Together, they are
19 responsible for maintaining the immigration detention system. As such, they are legal
20 custodians of Mr. Maklad.
- 21 8. This Court has jurisdiction under 28 U.S.C. § 2241 *et seq.*; the Declaratory Judgment Act,
22 28 U.S.C. § 2201 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Fifth Amendment
23 to the United States Constitution.
- 24 9. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (e)(1)(B) because a
25 substantial part of the events or omissions giving rise to the claims herein occurred in this
26 district.
- 27
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1 publicly available database of immigration case results does not return any case
2 information for Mr. Maklad. Without more information, Mr. Maklad believes that his
3 removal order became final on December 27, 2024, when the time for the government to
4 appeal the grant of withholding expired. *See* 8 C.F.R. § 1003.38(b).

5 17. Despite the grant of relief from removal, Mr. Maklad remains detained at the Eloy
6 Detention Center.

7 18. In August 2025, a lawyer acting on Mr. Maklad's behalf inquired of the Kuwaiti Embassy
8 whether that country might be willing to accept him for removal. It is unclear whether
9 there was any response to this inquiry.

10 19. In September 2025, Mr. Maklad was placed on a deportation flight to Venezuela. Once he
11 arrived, Venezuelan officials informed ICE that Venezuela would not accept Mr. Maklad
12 for removal. He was returned to the United States and detained again at the Eloy
13 Detention Center.

14 **Claims for Relief**

15 **Ground One: Mr. Maklad's detention in immigration custody violates the Due Process** 16 **Clause of the Fifth Amendment because there is no significant likelihood of** 17 **removal in the reasonably foreseeable future.**

18 20. Mr. Maklad cannot be returned to Syria, because an immigration judge has granted him
19 withholding of removal to that country. He has been detained in respondents' custody for
20 almost a year after he was granted that form of relief from removal.

21 21. Mr. Maklad's present detention is purportedly authorized under 8 U.S.C. § 1231.

- 22 a. Detention of aliens who have been ordered removed is mandatory during the so-
23 called "removal period." 8 U.S.C. § 1231(a)(1)(A). This period begins, as relevant
24 here, on the "date the order of removal becomes administratively final." 8 U.S.C.
25 § 1231(a)(1)(B)(i). Mr. Maklad's removal order became final on December 27,
26 2024, when the time for the government to file an appeal of the order granting
27 relief from removal expired.

- 1 b. Aliens like Mr. Maklad who have been ordered removed because they were
2 inadmissible upon entry, *see* 8 U.S.C. § 1182, may be kept in detention after the
3 removal period expires. *See* 8 U.S.C. § 1231(a)(6). If they are released, they “shall
4 be subject to the terms of supervision” in § 1231(a)(3). 8 U.S.C. § 1231(a)(6).
5 Those terms include periodic appearances before an immigration officer and other
6 conditions prescribed by regulation. 8 U.S.C. § 1231(a)(3)(A), (D).
- 7 c. The government has previously argued that the statutory text of § 1231 authorizes
8 indefinite detention. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).

- 9 22. But the Supreme Court has interpreted § 1231 *not* to authorize indefinite detention in
10 order to avoid a serious constitutional problem. *Zadvydas*, 533 U.S. at 689. The Due
11 Process Clause of the Fifth Amendment limits an alien’s “detention to a period
12 reasonably necessary to bring about that alien’s removal from the United States.” *Id.*
13 Because of this constitutional limitation, § 1231 “does not permit indefinite detention.”
14 *Id.* After six months of detention, there arises a presumption that the alien can “provide[]
15 good reason to believe that there is no significant likelihood of removal in the reasonably
16 foreseeable future,” such that “the Government must respond with evidence sufficient to
17 rebut that showing.” *Id.* at 701.
- 18 23. Mr. Maklad has been detained for more than six months. Under *Zadvydas*, this Court
19 should presume that his removal is unlikely in the reasonably foreseeable future. *See id.*
20 Respondents cannot rebut this presumption, because Mr. Maklad has been granted
21 withholding of removal to Syria on account of a verified fear of persecution in that
22 country. Nor has ICE successfully obtained authorization that he can be removed to any
23 third country. Venezuela will not accept him, as demonstrated by that country’s decision
24 to immediately return him to the United States once ICE deposited him in that country.
25 There is no indication that any other country will accept him. *See* 8 U.S.C.
26 § 1231(b)(2)(E)(vii) (allowing removal, as a last resort, to “another country whose
27 government will accept the alien into that country”).
28

1 **Ground Two: Mr. Maklad’s detention in immigration custody pending removal to any third**
2 **country violates the Due Process Clause of the Fifth Amendment because**
3 **ICE has not given him sufficient notice of the proposed third country and an**
4 **opportunity to request relief from removal to that country, either from an**
5 **immigration officer, an immigration judge, or a federal court.**

6 24. “It is well established that the Fifth Amendment entitles aliens to due process of law in
7 the context of removal proceedings.” *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per
8 curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Mr. Dang thus is entitled to
9 “notice and an opportunity to be heard appropriate to the nature of the case.” *Id.*
10 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)). As
11 relevant here, this means that Mr. Maklad is entitled to notice that he is to be removed to
12 a third country “within a reasonable time and in such a manner as will allow [him] to
13 actually seek habeas relief in the proper venue before such removal occurs.” *Id.*

14 25. Mr. Maklad has not been formally ordered removed to any country other than Syria. As
15 such, he has never had an opportunity to contest removal to any third country on the
16 ground that he may face persecution or torture if he is removed to that country.

17 26. To the extent that Mr. Maklad’s detention is meant to facilitate his removal to a third
18 country, *see generally Zadvydas*, 533 U.S. at 690 (suggesting that detention following a
19 removal order is intended to facilitate removal), if such a removal is accomplished in
20 violation of his due-process rights, then his detention is illegal. This due-process claim
21 “necessarily impl[ies] the invalidity of [his] confinement and removal” to a third country
22 not yet named in any removal order. *J.G.G.*, 145 S. Ct. at 1005. Thus his due-process
23 claim is properly brought in a habeas petition, and a court order that he be released from
24 detention is a proper remedy for such a violation.

25 **Prayer for Relief**

26 27. Mr. Maklad is being illegally detained, in violation of statute, the Due Process Clause of
27 the Fifth Amendment. He respectfully asks this Court to:

- 28 a. order the respondents to answer the petitioner;

- 1 b. permit Mr. Maklad to file a reply;
- 2 c. allow Mr. Maklad to conduct discovery, if necessary to fully air the claims in his
- 3 petition;
- 4 d. convene an evidentiary hearing, if necessary to resolve disputed facts;
- 5 e. order him released from respondents' custody on an order of supervision; and
- 6 f. grant him any other relief that is just and practicable.

7 Respectfully submitted:

November 18, 2025.

8 JON M. SANDS
9 Federal Public Defender

10 *s/Keith J. Hilzendege*
11 KEITH J. HILZENDEGER
12 Assistant Federal Public Defender
13 *Attorney for Petitioner Maklad*

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Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): **Kamel Maklad , ;**

Defendant(s): **Christopher Howard , Acting Warden, Eloy Detention Center; John Cantu , Former Phoenix Field Office Director, U.S. Immigration and Customs Enforcement; Pamela Jo Bondi , Attorney General of the United States; Kristi Noem , Secretary of Homeland Security;**

County of Residence: Pinal

County of Residence: Pinal

County Where Claim For Relief Arose: Pinal

Plaintiff's Atty(s):

Keith James Hilzendeger , Assistant Federal Public Defender
Federal Public Defender, District of Arizona
250 North 7th Avenue, Suite 600
Phoenix, AZ 85007
6023822700

Defendant's Atty(s):

IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction:

2. U.S. Government Defendant

III. Citizenship of Principal Parties(Diversity Cases Only)

N/A

Plaintiff:-

N/A

Defendant:-

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

463 Alien Detainee

VI. Cause of Action:

28 U.S.C. § 2241

VII. Requested in Complaint

No

Class Action:

0

Dollar Demand:

No

Jury Demand:

VIII. This case is not related to another case.

Signature: s/Keith J. Hilzendeger

Date: 11/18/2025

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Revised: 01/2014