

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

IN THE MATTER OF:

BASHIR JAMA ISSE

Petitioner,

vs.

CIVIL ACTION NO. _____

JUDGE _____

MAGISTRATE _____

DHS FILE NO. A 

Kevin Raycraft in his official capacity
as Field Office Director of Enforcement
and Removal Operations, Detroit Field Office,
Immigration and Customs Enforcement;

Kristi Noem, in her official capacity as Secretary,
U.S. Department of Homeland Security;

Todd Lyons, in his official capacity as Acting
Director of U.S. Immigration and Customs
Enforcement;

Pamela Bondi, in her official capacity as
Attorney General of the United States;

Richard Jones, in his official capacity
as Warden of Butler County Jail

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO
28 U.S.C. §2241 AND COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

COMES NOW Petitioner Bashir Jama Isse (“Mr. Isse”), by and through Counsel, and submits his Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief. He files his below Memorandum concurrently with his Petition. Mr. Isse is a native and citizen of Ethiopia whom the Department of Homeland Security (“DHS”) detains at the Butler County Jail, Hamilton, Ohio. Over six months have passed since he was initially detained by DHS. With his

Petition and Memorandum, Mr. Isse challenges the government's authority to continue detaining him. Mr. Isse asserts that the government cannot remove him from the United States and his detention has become indefinite. Mr. Isse argues that his indefinite detention violates substantive due process and INA §241(a)(6), 8 U.S.C. §1231(a)(6). He asks that the Court order his immediate release from detention.

SUPPORTING MEMORANDUM

I. PROCEDURAL AND FACTUAL HISTORY

Mr. Isse is a native and citizen of Ethiopia. Mr. Isse was born in Degehabur, Ethiopia on [REDACTED] *See* Ex. A, Ethiopian birth certificate. On September 22, 2015, Mr. Isse applied for admission to the United States at the Hidalgo, Texas, point of entry to seek asylum. *See* Ex. B, I-862 Notice to Appear. The Arlington, Virginia, Asylum Office conducted a credible fear interview of Mr. Isse on October 14, 2015, which returned a positive result as Mr. Isse was detained and tortured by [REDACTED] and Mr. Isse was placed in INA §240 removal proceedings. *Id. Also see* Ex. C, Asylum Officer's Notes from Credible Fear Interview.

Mr. Isse was detained by ICE at the Stewart Detention Center in Lumpkin, Georgia, where on November 12, 2015, he applied *pro se* for asylum, withholding of removal, and withholding of removal under the Convention Against Torture. *See* Ex. D, Mr. Isse's I-589 application. Although Mr. Isse is a native and citizen of Ethiopia, he is ethnically Somali. Despite consistently indicating his Ethiopian nationality to the DHS, Mr. Isse was charged in removal proceedings with being a citizen of Somalia. Exs. B-D. On November 17, 2015, still *pro se*, Mr. Isse withdrew his applications for asylum, withholding of removal, and withholding of removal under the Convention Against Torture and was ordered removed to Somalia. *See* Ex. E, Order of the Immigration Judge. Thereafter, Mr. Isse was released from ICE detention.

On August 19, 2016, Mr. Isse married Ms. Nimo Khalif in Columbus, Ohio. Mr. Isse has two children born in Ohio of this marriage in 2017 and 2019, and the marriage terminated in divorce in Columbus, Ohio, on March 28, 2022. *See* Ex. F, Divorce Decree, redacted. *Also see* Ex. G, Children's Birth Certificates, redacted. On June 23, 2024, in Franklin County, Ohio, Mr. Isse married his current spouse, Ms. Hayat Omer, who is a United States citizen. *See* Ex. H, Marriage Abstract. *Also see* Ex. I, Naturalization Certificate. On October 4, 2024, Ms. Omer filed an I-130 immigrant visa petition on Mr. Isse's behalf, and he applied for adjustment of status to legal permanent residency on the basis of

said petition. *See* Ex. J, USCIS Receipts for I-130 and I-485.

On May 21, 2025, Mr. Isse and his wife appeared at the USCIS Field Office in Columbus, Ohio, for their interviews on their I-130 immigrant visa petition and I-485 application for adjustment of status, and Mr. Isse was detained by ICE at that time. *See* Ex. K, Affidavit of Mr. Isse's spouse. Mr. Isse was taken to Butler County Jail in Hamilton, Ohio. Mr. Isse filed a motion to reopen his removal case, which was denied by the Stewart Immigration Court on August 1, 2025. *See* Ex. L, Aug. 1, 2025, Order of Immigration Judge.

Mr. Isse remains detained at the Butler County Jail. Mr. Isse's United States citizen spouse is suffering great economic, psychological, and physical hardship due to his detention. *See* Ex. K. Prior to his detention, Mr. Isse supported his spouse through his work as a truck driver. Mr. Isse's United States citizen children are also experiencing hardship due to his detention. Despite the divorce, Mr. Isse maintains a close relationship with his two minor children. *See* Ex. M, Affidavit of Mr. Isse's Ex-Spouse. While Mr. Isse is only required to pay \$450 per month in child support to his ex-spouse, he would typically pay approximately \$1000 per month voluntarily. *Id.* More than six months have elapsed since Mr. Isse was taken into custody by ICE. Mr. Isse has been cooperative with the DHS, yet the DHS has not obtained a travel document to effectuate his removal. Therefore, Mr. Isse asserts herein that his prolonged and unjustified detention is illegal and contrary to Due Process.

II. ARGUMENT

A. The Court Has Jurisdiction over Mr. Isse's Custodian.

The respondent in habeas petitions is the person who exercises day by day control over the petitioner's physical custody. 28 U.S.C. §§2242, 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 439, 124 S. Ct. 2711, 159 L. Ed. 2d 513 (2004) ("In challenges to present physical confinement, we reaffirm that the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent"). The federal district court in whose district the respondent controls the petitioner's physical custody is the court with jurisdiction over the respondent. *Padilla*, 542 U.S. at 447-48. Habeas petitioners must file their petitions with the courts who have jurisdiction over the immediate custodian. *Id.*

DHS detains Mr. Isse at the Butler County Jail in Hamilton, Ohio. Butler County Jail is within this Court's district. Richard K. Jones is the Sheriff of Butler County and is therefore the proper respondent. Because the Court has jurisdiction over him, Mr. Isse properly files his petition with this

Court.

In the exercise of caution, Mr. Isse lists respondents in addition to Sheriff Jones. *Padilla* does not answer the question whether in habeas cases which implicate the detention and removal of aliens, the Attorney General or other supervisory officials may be proper respondents. *Id.*, 542 U.S. at 435 n.8 (Supreme Court declines to resolve this issue). DHS or DOJ may also arrange to move Mr. Isse out of Ohio once he files his habeas petition. In this event the proper respondent would no longer be Jones, but rather, the entity remaining within this Court's reach which controls his detention. *Id.* 542 U.S. at 440-41 (discussing *Ex parte Endo*, 323 U.S. 283, 65 S. Ct. 208, 89 L. Ed. 243 (1944)). Mr. Isse therefore lists the DHS Field Office Director for Detention and Removal for the Ohio and Michigan District, Kevin Raycraft, as a respondent, because this Director ordered Mr. Isse's detention at Butler County. He lists as well DHS Secretary Kristi Noem, who is responsible for the Field Office Director.

B. The Court Has Subject Matter Jurisdiction over Mr. Isse's Habeas Petition.

Mr. Isse alleges that by detaining him indefinitely, the respondents violate his constitutional right to substantive due process. Further, they fail to follow the statutory provisions governing the detention of aliens who have been ordered removed. *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001); INA §241(a)(6), 8 U.S.C. 1231(a)(6) (contains implicit limitation on detention post removal order). *See also Clark v. Martinez*, 543 U.S. 371, 125 S. Ct. 716, 160 L. Ed. 2d 734 (2005) (extending *Zadvydas* to inadmissible aliens). This Court has jurisdiction to entertain his petition and grant it under 28 U.S.C. §2241(c)(3) (writ of habeas extends to individuals in custody in violation of the Constitution or the laws of the United States). *Zadvydas*, 533 U.S. at 687-88.

C. The Court Should Grant Mr. Isse's Habeas Petition on the Merits.

Supreme Court precedent and the Immigration and Nationality Act, Title Eight United States Code ("Act") make Mr. Isse's continued detention illegal. The Act mandates that the government remove an alien within a period of 90 days from the date on which alien is ordered removed. The 90 days is termed the removal period. Congress stipulates that the government must detain aliens throughout the removal period if they are inadmissible or deportable because they have committed drug offenses. INA §241(a)(1)(A), (a)(2), 8 U.S.C. §1231(a)(1)(A), (a)(2). Congress stipulates that the removal period shall be extended and an alien's detention may continue if the alien in some fashion

hinders his removal. INA §241(a)(1)(C), 8 U.S.C. §1231(a)(1)(C).

The last in time of one of three possible events triggers the running of the removal period: (1) the date the alien's order of removal becomes administratively final; (2) if a judicial court reviews the alien's final order and orders a stay of removal, the date of the judicial court's final order; or (3) if the alien is detained or confined pursuant to a non-immigration process, the date on which the alien is released from that detention or confinement. *See* INA §241(a)(1)(B), 8 U.S.C. §1231(a)(1)(B).

The event triggering the running of the removal period in Mr. Isse's case is the date on which he was taken into ICE custody, which occurred on or about May 21, 2025. The government had 90 days from May 21, 2025, to remove Mr. Isse. The government did not remove Mr. Isse within the removal period. He did not hinder the government in its attempts to remove him. The government therefore is in violation of INA §241(a)(1)(A), 8 U.S.C. §1231(a)(1)(A) because Mr. Isse remains detained by DHS within the United States. Further Congress no longer makes his detention mandatory. The question becomes whether the government has the right to continue to detain Mr. Isse, when it has failed to remove him during the removal period through no fault of his. DHS has now detained Mr. Isse beyond the 180-day period without any sufficient explanation. Mr. Isse's continued detention is illegal.

Congress gives the government the discretion to detain an alien beyond the 90 day removal period if: (a) the alien is inadmissible under INA §212, 8 U.S.C. §1182; (b) the alien is removable under INA §237(a)(1)(C), 237(a)(2), or 237(a)(4), 8 U.S.C. §1227(a)(1)(C), 1227(a)(2), or 1227(a)(4); (c) the government determines that the alien is a risk to the community; or (d) the government determines that the alien is unlikely to comply with the removal order. INA §241(a)(6), 8 U.S.C. §1231(a)(6). None of these statutory provisions are applicable to Mr. Isse.

The Supreme Court has ruled that substantive due process limits the government's discretion under INA §241(a)(6), 8 U.S.C. §1231(a)(6) to detain an alien like Mr. Isse past the removal period. *Zadvydas*, 533 U.S. at 699. It has ruled that INA §241(a)(6), 8 U.S.C. §1231(a)(6) contains an implicit limitation on continued detention. Once detention is no longer reasonably foreseeable, this section no longer authorizes detention. *Id.* Six months of detention is presumptively reasonable. *Id.* at 701. An alien proves that detention beyond six months is unreasonable by providing “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* Once an alien adequately shows that there is no significant likelihood that he will be removed in the reasonably foreseeable future, the burden shifts to the government “to respond with evidence sufficient to rebut” the alien's showing. *Id.* A detained alien adequately shows no significant likelihood of removal in the

reasonably foreseeable future where: (1) no country will accept him; (2) his country of origin refuses to issue his travel documents; (3) his country of origin and the United States have no removal agreement; or (4) his country of origin is asked to provide his travel documents, and several months then elapse without a definitive answer from that country. *Nma v. Ridge*, 286 F. Supp. 2d 469, 475 (E.D. Pa. 2003). When a court reviews the evidence and finds that removal is not likely to occur in the reasonably foreseeable future, it “should hold continued detention unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699-700.

As of date of this Petition, the government has not removed Mr. Isse from the United States nor has he been informed of any tangible progress with the Ethiopian Consulate, despite the lapse of the 180-day period. To the best of Mr. Isse's knowledge and belief, the government has not found a third country to accept him. Mr. Isse argues that if the government has tried for over 180 days to remove him from the United States, with his full cooperation and assistance, then there is no likelihood whatsoever that the government will remove him in the reasonably foreseeable future. As such, Mr. Isse's detention is clearly indefinite.

The government violates INA §241(a)(6), 8 U.S.C. §1231(a)(6), and it deprives Mr. Isse of his right to substantive due process. *See Zadvydas*. *See also Rajigab v. Conway*, 268 F. Supp. 2d 159 (E.D. N.Y. 2003) (granting writ of habeas where Guyanese officials have advised that they will not issue travel document to alien); *Heagan v. Jolicoeur*, 2006 WL 897709 (W.D. Tex. 2006) (granting writ of habeas and ordering release of Liberian detained for over 15 months where Liberia questioned citizenship and refused to issue travel documents); *Gui v. Ridge*, 2004 WL 1920719 (M.D. Pa. 2004) (granting writ of habeas and stating that evidence of past success repatriating aliens to China is not sufficient evidence to continue to detain alien when China has failed to respond to requests for travel documents for that particular alien); *Hefqet v. Ashcroft*, 2003 WL 1964290 (N.D. Ill. 2003) (writ of habeas to issue if within 30 days, government fails to remove alien already detained for 17 months, in light of refusal by designated country of removal to issue alien a travel document).

III. CONCLUSION

Wherefore, Mr. Isse respectfully asks that the Court find that his continued detention has become indefinite, in violation of INA §241(a)(6), 8 U.S.C. §1231(a)(6) and substantive due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Bashir Jama Isse, by and through his undersigned counsel, prays that this Honorable Court grant the following relief:

- (1) Accept jurisdiction over this action and schedule the matter for emergency hearing at the Court's earliest possible date;
- (2) Order the prohibition of Petitioner's transfer from this Court's jurisdiction until this case is resolved;
- (3) Grant the writ of habeas corpus;
- (4) Order Petitioner's immediate release from custody on any conditions the Honorable Court deems appropriate;
- (5) Award to Petitioner reasonable costs and attorneys' fees; and,
- (6) Grant any other relief that this Honorable Court deems appropriate.

Respectfully Submitted,

/s/ Amy M. Bittner
Amy M. Bittner, Esq.
Attorney for Petitioner
2000 W. Henderson Road, Suite 150
Columbus, OH 43220
614-761-9775
614-734-8502 (FAX)
abittner@rbrownllc.com

VERIFICATION

Amy M. Bittner, under penalty of perjury, states the following:

1. I am an attorney admitted to practice before this Court. I am employed at Robert Brown, LLC., the attorney for the Petitioner in the foregoing complaint.
2. I affirm the truth of the contents of the foregoing Complaint upon information and belief. The sources of my information and belief are my personal knowledge of the factual and procedural history of Petitioner's case through the documents provided to me by the Petitioner's spouse.

Dated: Columbus, Ohio
November 26, 2025

s/ Amy M. Bittner