

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Abdelkader Abdelwahad Abdelkade Ismail,

25-4596

Petitioner,

v.

Kristi Noem, Secretary, U.S. Department of
Homeland Security,

Department of Homeland Security,

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

David Easterwood, Acting Director, St. Paul
Field Office Immigration and Customs
Enforcement,

and,

Eric Tollefson, Sheriff of Kandiyohi
County.

Respondents.

INTRODUCTION

1. Respondents are detaining Petitioner, Mr. Abdelkader Abdelwahad Abdelkade Ismail, (“Petitioner”), who is subject to a final order of removal,

dated May 5, 2025, as well as a grant of Withholding of Removal to Egypt issued simultaneously with the removal order.

2. Petitioner's order of removal became administratively final on June 4, 2025, when the appeals period ran without Petitioner seeking administrative review.
3. Petitioner has been held in Respondents custody for more than a year, starting on approximately November 2, 2024, more than six months of which has postdated his final order of removal, which became administratively final on June 4, 2025.
4. The prolonged post-removal order detention, which has now totaled more than six months, violates the Due Process Clause of the United States Constitution in light of the absence of any third country to remove Petitioner to and the legal impossibility of removing him to Egypt, against which he has been granted Withholding relief.
5. The continued detention of Petitioner serves no legitimate purpose.
6. To remedy this unlawful detention, Petitioner seeks declaratory and injunctive relief in the form of immediate release from detention.
7. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any

location outside of the geographic jurisdiction of the day-to-day operations of U.S. Customs and Immigration's ("ICE") Fort Snelling, Minnesota of the Office of Enforcement and Removal Operations in the State of Minnesota,

8. Pending the adjudication of this Petition, Petitioner also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Petitioner.
9. Petitioner requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hour notice prior to any removal or movement of him away from the State of Minnesota.

JURISDICTION AND VENUE

10. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (federal employee mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), specifically, 8 U.S.C. § 1101-1537.

11. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court. *See Zadvydas, v. Davis*, 533 U.S. 678 (2001).
12. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 290-94 (2018); *Nielsen v. Preap*, 586 U.S. 392, 399, 399-401 (2019)
13. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within this District. He is currently detained at the Kandiyohi County Jail, in Willmar, Minnesota. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

14. Petitioner is a citizen and national of Egypt. Petitioner is currently in Immigration and Customs Enforcement (“ICE”) custody at the Kandiyohi County Jail, in Willmar, Minnesota.
15. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration

laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Petitioner's detention. As such, Respondent Noem is a legal custodian of Petitioner.

16. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, including Petitioner. As such, DHS is a legal custodian of Petitioner.
17. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, which oversees the detention of aliens in the United States. Mr. Lyons is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention. As such, Respondent Lyons is a legal custodian of Petitioner.
18. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens. As such, ICE is a legal custodian of Petitioner.
19. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory

authority over the ICE agents responsible for detaining Petitioner. The address for the Fort Snelling Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111, and it is the field office with jurisdiction over Petitioner's detention in Minnesota. As such, Respondent Easterwood is a legal custodian of Petitioner.

20. Respondent Sheriff Eric Tollefson is being sued in his official capacity as the Sheriff responsible for the Kandiyohi County Jail Services. Because Petitioner is detained in the Kandiyohi County Jail, Respondent has immediate day-to-day control over Petitioner. As such, Respondent Tollefson is a legal custodian of Petitioner.

EXHAUSTION


21. A final order of removal has been entered against Petitioner and Petitioner has exhausted his administrative remedies such that judicial action is his only remedy.
22. Notably, no statutory exhaustion requirement applies to Petitioner's claim of unlawful detention. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final removal order).
23. Furthermore, prudential "[e]xhaustion is not required when the issue presented to the court ... involves purely legal issues." *Trinity Indus. v.*

Reich, 901 F. Supp. 282, 286 (E.D. Ark. 1993), *aff'd*, 33 F.3d 942 (8th Cir. 1994) (citing *Bethlehem Steel v. E.P.A.*, 669 F.2d 903, 907 (3rd Cir.1982)).

24. This is a purely legal issue relating to prolonged detention under the Fifth Amendment.
25. “Further, exhaustion is not required when the nonjudicial remedy is clearly shown to be inadequate to prevent irreparable injury.” *Id.* (citing *Miss America Organization v. Mattel*, 945 F.2d 536, 545 (2nd Cir.1991)).
26. Unlawful, going on indefinite, detention is clearly an irreparable injury given that “a loss of liberty ... is perhaps the best example of irreparable harm.” *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018).
“Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001).
27. “In addition, exhaustion is not required where administrative proceedings involve questions of significant national interest or where the agency has clearly violated rights secured by the Constitution, statutes, or administrative regulations.” *Trinity Indus.*, 901 F. Supp. at 286 (citing *Philip Morris v. Block*, 755 F.2d 368, 370 (4th Cir.1985)).
28. Respondents have now detained Petitioner beyond the 6 months after his final order of removal, which is presumptively unreasonable. *See Zadvydas*, 533 U.S. at 701.

29. Nevertheless, Petitioner has indeed exhausted his administrative remedies by seeking custody redetermination at the end of his 90-day mandatory detention period. *See* Ex. B; Ex. C; Ex. D.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

30. Petitioner was born in Egypt, on , and is a citizen and national of Egypt.
31. On November 2, 2024, Petitioner entered the United States to seek asylum.
32. Upon entry, Petitioner was detained and has remained in detention since that time.
33. On May 5, 2025, Petitioner's application for asylum was denied but he was granted withholding of removal under 8 U.S.C. § 1231(b)(3)(A).
34. Both Petitioner and the government reserved their rights to appeal, but neither side took an appeal by the deadline to do so, which expired on June 4, 2025. *See* Ex. A.
35. On August 3, 2025, Respondents conducted a custody redetermination with Petitioner. *See* Ex. B.
36. On September 11, 2025, Respondents issued a notice to continue Petitioner's detention based on his "lack of family and close personal ties in the United States" and an unsubstantiated claim that his "removal [was] expected to occur in the foreseeable future." *See* Ex. C.

37. Respondents did not indicate why they believed Petitioner's "removal [was] expected to occur in the foreseeable future." *See* Ex. C.
38. On October 24, 2025, Respondents conducted a custody redetermination with Petitioner. *See* Ex. D.
39. On December 4, 2025, Respondent's eclipsed the presumptively reasonable 6-months of post removal order detention in Petitioner's case.
40. To date, Respondents have not identified a third country, aside from Egypt, to which they intend to remove Petitioner.
41. To date, Respondents have not received authorization or permission from any third country willing to accept Petitioner.
42. To date, Respondents have not obtained a travel document that would permit them to remove Petitioner to a third country.
43. To date, Petitioner has not been made aware of any specific plans to remove him to any specific, identified, third country.
44. Petitioner remains in detention at Kandiyohi County Jail in Willmar, Minnesota.

LEGAL FRAMEWORK

45. As the constitution states, "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public Safety may require it." U.S. Const. art. I, § 9 cl. 2.

46. Such a writ is available to a person who “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).
47. “There is no higher duty of a court, under our constitutional system, than the careful processing and adjudication of petitions for writs of habeas corpus, for it is in such proceedings that a person in custody charges that error, neglect, or evil purpose has resulted in his unlawful confinement and that he is deprived of his freedom contrary to law.” *Harris v. Nelson*, 394 U.S. 286, 291-22 (1969).
48. 55. “The scope and flexibility of the writ – its capacity to reach all manner of illegal detention – its ability to cut through barriers of form and procedural mazes – have always been emphasized and jealously guarded by courts and lawmakers.” *Id.* at 291.
49. “[W]hen an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the “removal period”).” 8 U.S.C. § 1231(a)(1)(A).
50. The removal period begins on the latest of the following:
 - (i) The date the order of removal becomes administratively final.
 - (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court’s final order.

- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

8 U.S.C. § 1231(a)(1)(B).

51. An “‘order of deportation’ means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.” 8 U.S.C. § 1011(a)(47)(A).

52. Such an order “shall become final upon the earlier of—

- (i) a determination by the Board of Immigration Appeals affirming such order; or
- (ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.

8 U.S.C. § 1011(a)(47).

53. The removal period may be extended beyond a period of 90 days if the alien “fails or refuses to make timely application in good faith for travel or other documents necessary to [his] departure,” or otherwise fails to cooperate in the removal process. 8 U.S.C. § 1231(a)(1)(C).

54. “If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations

prescribed by the Attorney General. The regulations shall include provisions requiring the alien—

- (A) to appear before an immigration officer periodically for identification;
- (B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;
- (C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and
- (D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

8 U.S.C. § 1231(a)(3).

55. “An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).” 8 U.S.C. § 1231(a)(6).
56. However, “the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A).

57. Notably, as with an order under the Convention Against Torture, a withholding of removal order under 8 U.S.C. § 1231(b)(3)(A) “is not itself a final order of removal because it is not an order “concluding that the alien is deportable or ordering deportation.”” *Nasrallah v. Barr*, 590 U.S. 573, 582 (2020).
58. As such, “the finality of the order of removal does not depend in any way on the outcome of the withholding-only proceedings.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 539 (2021).
59. “Because the validity of removal orders is not affected by the grant of withholding-only relief, an alien's initiation of withholding-only proceedings does not render non-final an otherwise ‘administratively final’ reinstated order of removal.” *Id.* at 540.
60. Indeed, “the order of removal is separate from and antecedent to a grant of withholding of removal.” *Id.* at 540.
61. As such, the “order of removal” become administratively final on June 4, 2025, when Petitioner’s appeals period ran without his having taken an appeal and his removal period began on June 4, 2025, and competed on September 2, 2025.

62. The Due Process Clause of the Fifth Amendment requires that “[n]o person shall... be deprived of liberty... without due process of law.” U.S. Const. amend. 5.
63. It is well-established that the Fifth Amendment entitled aliens to due process of Law[.]” *Demore v. Kim*, 528 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).
64. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
65. Due process therefore requires “adequate procedural protections” to ensure that the government’s asserted justification for its conduct infringing on protected interests ‘outweighs the individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* (citing *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).
66. As such, “Congress previously doubted the constitutionality of detention for more than six months.” *Zadvydas*, 533 U.S. at 701 (2001).
67. “After this 6–month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.*

68. “[A]s the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.* at 701.
69. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.
70. Other than punishment for a crime, due process permits the government to take away liberty only “in certain special and narrow nonpunitive circumstances . . . where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (quotation marks omitted).
71. Such special justification exists only where a restraint on liberty bears a “reasonable relation” to permissible purposes. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *see also Foucha v. Louisiana*, 504 U.S. 71, 79 (1992); *Zadvydas*, 533 U.S. at 690.

CAUSE OF ACTION

COUNT ONE: VIOLATION OF THE FIFTH AMENDMENT

72. Petitioner re-alleges and incorporates by reference each allegation.
73. The Fifth Amendment Due Process Clause protects against arbitrary detention by the executive branch. *Zadvydas*, 533 U.S. at 699.

74. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized.” *Id.*
75. “After this 6-month period [of detention], once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. *Id.* at 701.
76. “[F]or detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.*
77. Courts in Minnesota “have found no significant likelihood of removal ... where ... no country will accept him.” *Ahmed v. Brott*, 2015 WL 1542131, at *4 (D. Minn. Mar. 17, 2015).
78. Petitioner has been detained for more than six months after the administrative finality of his removal order.
79. Petitioner’s removal to Egypt is squarely foreclosed under 8 U.S.C. § 1231(b)(3)(A). It is a legal impossibility.
80. No other country has issued a travel document.
81. Continued detention violates the Fifth Amendment and Petitioner’s writ of habeas corpus must issue.

COUNT TWO: VIOLATION OF ADMINISTRATIVE PROCEDURES ACT

82. Petitioner re-alleges and incorporates by reference each allegation.
83. Under the APA, “the reviewing court shall ... interpret constitutional ... provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall ... hold unlawful and set aside agency action, findings, and conclusions found to be ... contrary to constitutional right.” 5 U.S.C. § 706 (2)(B).
84. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699.
85. “Congress previously doubted the constitutionality of detention for more than six months. ... After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701.
86. Petitioner’s detention is unreasonable, as Petitioner’s removal to Egypt is prohibited, no other country has accepted him, and more than six months have elapsed since Petitioner’s removal order became administratively final. Petitioner’s ongoing detention is therefore unreasonable, and violative of his Fifth Amendment guarantee of due process, as well as the Administrative Procedures Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Issue an order restraining Respondents from attempting to move Petitioner from the State of Minnesota during the pendency of this Petition.
3. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner.
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C., chapter 153 related to habeas actions.
5. Order Respondents to show cause for their continued detention of Petitioner within three days pursuant to 28 U.S.C. § 2243.
6. Grant the writ of habeas corpus.
7. Order Petitioner's release from custody under an order of supervision or other condition as set by the Court.
8. Declare that Respondents' action is arbitrary and capricious.
9. Declare that Petitioner's detention beyond the 6-month period violates the Due Process Clause of the Fifth Amendment where travel arrangements have not been made.
10. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).

11. Grant all further relief this Court deems just and proper.

DATED: December 11, 2025

Respectfully submitted,

/s/ Cameron Giebink

Cameron Giebink

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Attorney for Petitioner

**Verification by
Petitioner Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am his attorney. I have discussed the events described in this Petition with Petitioner and have reviewed his documents to corroborate the claims made herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the dates and nature of the administrative appellate procedure, are true and correct to the best of my knowledge.

/s/ Cameron Giebink
Cameron Giebink

12/11/2025
Date: