

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JELILI QUDUS,

PETITIONER.

v.

KRISTI NOEM, in her official capacity
as Secretary of Department of Homeland
Security; TODD LYONS, in his official
capacity as the Acting Director of ICE;
MARY DE ANDA-YBARRA, in her
official capacity as U.S. Immigration and
Customs Enforcement, El Paso Field
Office Director

RESPONDENTS.

Civil Case No. 3:25-cv-00679

PETITION FOR A WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. §
2241, BY A PERSON SUBJECT TO
INDEFINITE IMMIGRATION
DETENTION

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner, Jelili Qudus, by and through counsel, respectfully files this motion seeking the Court's urgent intervention. On October 23, 2025, Respondents abruptly and without justification detained Petitioner when he appeared at the ICE Field Office located at 101 W. Ida B. Wells Drive in Chicago, Illinois. His purpose for being there was the same as it has been for over seventeen years: to comply with his annual reporting obligation under the Order of Supervision ("OSUP") issued in 2008. Despite his consistent compliance, and in the absence of any violation of the OSUP, ICE took Petitioner into custody without explanation, notice, or lawful basis.

2. As of Petitioner's detention on October 23, 2025, and continuing through the filing of this petition, Petitioner has not been provided with any information regarding travel documents. He is neither a flight risk nor a danger to public safety, and there has been no change in circumstances that would justify re-detention. Accordingly, ICE failed to comply with the mandatory procedures and make the required findings set forth in 8 C.F.R. § 241.13. Had ICE adhered to the procedures required by law, the only conclusion that could have been reached is that there was—and remains—no lawful basis for this detention.

3. Given the absence of any legitimate justification for Petitioner's continued confinement, it is difficult to discern a lawful rationale for ICE's actions. The most plausible explanation is that ICE is maintaining his detention solely to inflate its statistical enforcement figures, in service of meeting arbitrarily elevated deportation targets. Such a basis is not only unlawful but also fundamentally immoral. Petitioner's detention is punitive, not administrative, and violates both the Constitution and the governing statutes.

4. The legal principles articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001), guide the analysis in this case. This habeas petition is not being brought under *Zadvydas* in its typical posture, which governs continued detention from the start of the statutory ninety-day removal period through its expiration and beyond. Prior to the present detention matter now before this Court, in 2008, ICE detained Petitioner.

After 90 days of detention, he was released under an Order of Supervision around December 2008. Since his release, Petitioner has been in compliance with conducting annual check-ins. *Zadvydas* is what required ICE to release Petitioner after the statutory removal period expired more than seventeen years ago, after his initial detention. Because Petitioner was in full compliance with his Order of Supervision and the statutory removal period had long since expired, ICE could only subject him to “re-detention” in accordance with 8 C.F.R. § 241.13. Petitioner’s re-detention was procedurally deficient because ICE failed to make the mandatory finding of changed circumstances specific to him. He has remained on supervised release for over seventeen years. To this day, Petitioner has not been informed of the existence of any travel documents that would render his present detention lawful.

5. This re-detention is a flagrant and ongoing violation of the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, and the mandatory regulatory procedures for re-detention set forth in 8 C.F.R. § 241.13(f), (i). Petitioner’s confinement is not administrative but punitive, indefinite, and unconstitutional. Every additional day of this detention inflicts new and irreparable harm through the profound loss of liberty and the forced separation from his U.S. citizen children and family. For these reasons, good cause exists for this Court to grant this Petition for a Writ of Habeas Corpus and immediately enjoin ICE from

continuing to detain Petitioner in violation of the Constitution and laws of the United States.

CUSTODY

6. Petitioner is presently detained by, and in the physical custody of, the United States Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), at the ERO Camp East Montana facility in El Paso, Texas. He remains under the direct control of Respondents and their agents, who exercise complete authority over his confinement. This detention prohibits Petitioner from returning to his family and community and prevents him from supporting his four U.S. citizen children, three of whom are minors and rely upon him daily for care, stability, and financial support. His confinement thus inflicts not only a deprivation of liberty upon him, but also severe collateral harm upon his children and the community he serves.

JURISDICTION

7. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Article I, Section 9, Clause 2 of the United States Constitution (the “Suspension Clause”), and 28 U.S.C. § 1331. Petitioner is presently in custody under color of the authority of the United States, and such custody is in direct violation of the Constitution, laws, and treaties of the United States. Accordingly, habeas corpus relief is available to

challenge the legality of Petitioner's detention, which is indefinite, punitive, and unsupported by statutory or regulatory authority.

VENUE

8. Pursuant to 28 U.S.C. § 1391, venue is proper in the Western District of Texas, El Paso Division. Petitioner is currently detained within the territorial jurisdiction of this Court, at the ERO Camp East Montana Center in El Paso, Texas. Because his physical confinement is occurring in this District, and because Respondents exercise custodial authority over him there, venue is appropriate and proper for the adjudication of this habeas petition.

PARTIES

9. Petitioner, Mr. Jelili Qudus, is a native and citizen of Nigeria, born   He is currently detained by ICE at the ERO Camp East Montana Detention Center in El Paso, Texas.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. She is named in her official capacity.

11. Respondent Todd Lyons is the Acting Director of ICE. In this position, he is responsible for the administration of ICE and the implementation and enforcement of the INA. He is named in his official capacity.

12. Respondent Mary De Anda-Ybarra is the ICE Field Office Director of the El Paso Field Office and is Petitioner's immediate custodian.

EXHAUSTION OF REMEDIES

13. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. Furthermore, no statutory exhaustion requirements apply to Petitioner's claim of unlawful detention. Habeas corpus relief under 28 U.S.C. § 2241 is the appropriate and exclusive vehicle to challenge the legality of his confinement. No administrative process can provide the immediate release necessary to prevent ongoing constitutional injury. Furthermore, Petitioner has properly invoked this Court's jurisdiction, and exhaustion does not bar habeas relief.

STATEMENT OF THE FACTS

14. Petitioner is a 57-year-old native of Nigeria who entered the United States in 1992 on a visitor's visa and has resided in the Chicagoland area continuously for over 33 years. He is the father of four U.S. citizen daughters, ages 2, 4, 7, and 26, and has been their sole financial provider. He has consistently supported his children, including paying private school tuition, attending school activities, and serving as their primary caretaker. He is also a beloved and well-respected faith leader, conducting weekly prayers and engaging in community service such as visiting the sick and distributing food to the needy. His family and community ties are firmly

rooted in the United States, where his children, brother, and mother all lawfully reside.

15. In 1994, at the age of twenty-four and shortly after entering the United States, Petitioner was convicted of a misdemeanor offense. That conviction was his first and only encounter with the criminal justice system. Nevertheless, it has carried persistent adverse consequences that continue to burden him to this day, including his present detention and the ongoing threat of removal. More than thirty years have since passed, during which Petitioner has remained in the United States, raised his family, and demonstrated rehabilitation, responsibility, and service to his community.

16. In 2019, Petitioner's eldest daughter, a U.S. citizen, filed an I-130 petition on his behalf. That petition was approved by the United States Citizenship and Immigration Services, formally recognizing the legitimacy of the family relationship and establishing Petitioner's eligibility for family-based immigration relief. Despite this longstanding approval, Petitioner has remained unable to adjust status due to the continuing impact of the 1994 conviction.

17. Petitioner's daughters continue to endure severe hardship as a result of his detention. They suffer emotional distress, instability, and the irreplaceable loss of their father's guidance, provision, and support during critical developmental years. This hardship is compounded by the disruption to the family's long-standing

expectation: that Petitioner would one day be able to secure lawful status and remain with them permanently, based on the approved I-130 petition.

18. In addition, Petitioner bears responsibility for the care of his elderly mother, a lawful permanent resident, who resides with him and is not independently mobile. She suffers from various health ailments, and he ensures her access to medical care by accompanying her to appointments, supports her participation in weekly faith congregation, and attends to her daily needs. She relies on him for consistent, everyday care, underscoring the breadth of the family's dependence upon his presence.

19. On November 16, 2001, an Immigration Judge ordered Petitioner removed. He did not appeal, and the order became administratively final that same day. Pursuant to 8 U.S.C. § 1231(a)(1), the statutory ninety-day removal period expired on February 14, 2002. Nevertheless, ICE detained him for the first time in 2008, despite the absence of travel documents or changed circumstances. He was released under an Order of Supervision, under which he complied fully for more than seventeen years.

20. On October 23, 2025, Petitioner appeared for his annual check-in with ICE, accompanied for the first time by his immigration counsel. For seventeen years of prior check-ins, Petitioner had appeared alone and remained in full compliance with his Order of Supervision. After waiting approximately forty minutes, his counsel

briefly stepped away to attend to another client in the same building. Within less than a minute of counsel's departure, despite his compliance, ICE officers arrested Petitioner without prior notice, explanation, or the opportunity to consult with his attorney. Petitioner's detention is a violation of the Due Process Clause.

21. Petitioner was denied the hearing required under ICE guidelines. Since his release in 2008, Petitioner has experienced no negative changes in circumstances warranting re-detention. To the contrary, all developments in his life have been positive: he has welcomed three additional minor children, deepened his faith, and become a beloved religious leader. He has had no issues that would justify re-detention, which has instead caused unjust separation from his children, family, and faith community.

22. Despite this ongoing detention, USCIS issued a notice directing him to appear for biometrics on Friday, November 28, 2025. This contradictory requirement highlights the lack of clarity and fairness in his case, as he is simultaneously deprived of liberty while being expected to comply with procedural obligations that he cannot reasonably fulfill while he remains detained.

23. Petitioner was detained without warning or explanation from ICE. ICE did so without any due process whatsoever, much less the process required by its own regulations found at 8 C.F.R. § 241.13.

24. To be clear, ICE provided no notice to Petitioner of its intentions to take him into custody when he reported on October 23, 2025. He had not violated any provisions of the OSUP. Likewise, ICE did not identify any changed circumstances which would make Petitioner's removal more likely on October 23, 2025, than it was every other day over the past seventeen years. Moreover, ICE has given no sign that Petitioner's removal is foreseeable, leaving him confined under conditions of indefinite uncertainty.

25. Since his abrupt and unjustified arrest, after spending approximately two days at a detention center in Broadview, Illinois. He was later transferred to the Montana Camp East Montana Detention Center in El Paso, Texas, where he has been detained since. ICE has made no effort to communicate with him regarding the reason for his detention, revocation of his supervision, nor has he been made aware of travel documents secured for removal to Nigeria—a process known to be exceedingly complex for individuals in his circumstance.

26. As of the date of this filing, Petitioner remains unlawfully detained without any indication that his removal is reasonably foreseeable. Therefore, his current detention is in direct violation of the principles set forth by the Supreme Court in *Zadvydas v. Davis*, constituting an unlawful restraint on his liberty.

27. Petitioner's detention is in direct violation of the principles set forth by the Supreme Court in *Zadvydas*. More importantly, for the purposes of this action, ICE

failed to adhere to its own mandatory regulations when it re-detained Petitioner. This re-detention has been unconstitutional and unlawful since the moment it began on October 23, 2025, when he reported to the annual check-in as required.

Health and Humanitarian Concerns

28. Petitioner is receiving specialized care from a hepatologist due to the severity of his chronic liver disease. This condition carries a heightened risk of rapid progression to liver failure or hepatocellular carcinoma if not closely monitored. Because these complications can develop quickly in individuals frequent testing and timely medical intervention are essential. Petitioner's detention has disrupted this continuity of care, placing him at imminent risk of irreversible harm.

29. On the same day of his detention, Petitioner was scheduled for a bi-annual hepatology screening at the [REDACTED] where he has been under close medical supervision for chronic liver disease. His detention prevented him from attending this critical medical appointment.

30. Petitioner's prescribed medications for other ailments have been withheld or reduced. He has not been provided adequate medical care for his liver disease, placing him at imminent risk of deterioration. Additionally, the facility is overcrowded, increasing exposure to infectious diseases and aggravating

Petitioner's fragile health. Stress and lack of access to proper nutrition and medical care further worsen his condition.¹

31. Petitioner and all four of his U.S. citizen daughters carry the sickle cell trait. In addition, Petitioner suffers from multiple health conditions that require regular medical check-ups, continuous monitoring, and prescribed medication which may, if not provided as prescribed, exacerbate his pain and suffering. His youngest daughters, ages 2, 4, and 7, are presently experiencing separation anxiety due to his absence. As their primary caretaker, Petitioner suffers not only from physical pain but also psychological strain, and emotional anguish associated with the abrupt and forced separation from his children.

Grounds for Relief

32. Unlawful Detention Beyond Statutory Removal Period: Pursuant to 8 U.S.C. § 1231(a)(1), the statutory ninety-day removal period expired on February 14, 2002. Despite the absence of travel documents or changed circumstances, Petitioner was first detained in 2008 and has now been re-detained in 2025 after seventeen years of full compliance under supervision. Continued detention under these circumstances

¹ Human rights groups have sent a letter to U.S. Immigration and Customs Enforcement (ICE) documenting accounts of horrific conditions, including beatings and sexual abuse by officers against detained immigrants, beatings and coercive threats to compel deportations to third countries, medical neglect, hunger and insufficient food, and denial of meaningful access to counsel, among other rights violations. *Letter to U.S. Immigration and Customs Enforcement Regarding Coercive Third Country Deportations and Abusive Conditions of Confinement in Immigration Detention at Fort Bliss, TX (Camp East Montana)*, December 8, 2025. <https://www.aclu.org/documents/ice-letter-re-fort-bliss>.

exceeds statutory authority and violates the limits Congress imposed on immigration custody.

33. Arbitrary and Capricious Enforcement. Petitioner's sudden arrest on October 23, 2025, despite seventeen years of compliance with his Order of Supervision, was arbitrary and without notice. ICE officers acted while Petitioner's counsel was momentarily absent, depriving him of the opportunity to consult with his attorney. Such conduct violates due process and undermines the fairness of immigration enforcement.

34. Violation of Constitutional Due Process. Detention that serves no legitimate purpose violates substantive due process. Petitioner's liberty interest, family unity, and access to counsel are all compromised by arbitrary detention. Habeas relief is warranted to restore constitutional protections.

Irreparable Harm of Continued ICE Detention

35. Everyday Petitioner is detained in ICE custody, in direct contravention of the statute and U.S. Constitution, he suffers irreparable harm. Petitioner is at risk of physical harm, psychological trauma, spiritual despair, and lasting negative consequences if he remains in custody. Meanwhile, there will be zero harm to Respondents if Petitioner is immediately released from ICE custody.

36. There is no reason to consider Petitioner a danger. He is a beloved father and faith leader who actively serves the community and has been faithfully following the

rules for nearly two decades, with a history of being an upstanding member of society. Meanwhile, Petitioner reported to ICE despite of the volume of recent arrests and the accounts of others that he might be taken into custody. His voluntary compliance under these circumstances emphasizes his reliability and demonstrates that there is no basis to claim he poses a flight risk. Integrity, honesty and responsibility serve as the compass for Petitioner's life.

37. ICE has begun subjecting individuals, against its own regulation guidelines, to prolonged and often indefinite detention, with some individuals being held for many months and, in some cases, over a year. Furthermore, ICE began to re-detain individuals who had been living peacefully in the community for years, or even decades, under orders of supervision, creating immense turmoil and uncertainty for thousands of families. Re-detention guidelines, in relevant part, provide that ICE can re-detain someone after initial release if: circumstances change; violation of supervision occurs (i.e.: missing check-ins or partaking in new criminal activity since the supervision was issued); or if the individual is deemed a flight risk. Procedurally, if any of these exist, pursuant to 8 C.F.R. § 241.4, ICE must issue a notice allowing a detainee the right to submit evidence before a re-detention occurs showing why continued release is warranted. ICE regulations require procedural fairness in custody reviews, but Petitioner was re-detained without notice, hearing, or explanation, a categorical violation of due process. His sudden arrest at a check-in,

despite seventeen years of compliance, demonstrates arbitrary and capricious enforcement. The lack of notice deprived him of the opportunity to prepare his family and consult with counsel, compounding the constitutional harm.

38. If ICE had determined that Petitioner had newly violated any provisions of its regulations, it should have given him prior notice of the concern and allowed him the opportunity to present evidence in support of his position that re-detention was not warranted.

39. ICE, prior to re-detention, must demonstrate changed circumstances; it cannot lawfully act arbitrarily. Any decision to revoke release must be tied to new facts, not speculation or convenience. Petitioner was entitled to be made aware of ICE's position prior to re-detention, yet no notice or explanation was provided. Petitioner is not violent, and his voluntary attendance at the annual check-in—despite knowing the risk of detention—demonstrates that he is not a flight risk. His consistent compliance over the course of seventeen years further affirms that continued detention is both unwarranted and unlawful. 8 C.F.R. § 241(h)(2) reinforces that detainees must be given a meaningful opportunity to present evidence before custody decisions are made.

40. Petitioner's continued detention after more than thirty-three years of residence and seventeen years of active compliance in the United States, with deep family and community ties, serves no legitimate purpose under the immigration

laws. His longstanding compliance with supervision and the lack of foreseeability of his removal demonstrate that his detention is punitive rather than necessary. Holding Petitioner in custody under these circumstances is misaligned with statutory limits and constitutional protections, and constitutes unlawful detention in violation of the Due Process Clause.

41. Beyond clearly violating the Fifth Amendment Due Process Clause, ICE did not follow its own guidelines when it chose to detain Petitioner without justification, and in violation of its own regulations, at the precise moment his counsel stepped away.

LEGAL BASIS FOR RELIEF SOUGHT

42. The Immigration & Nationality Act provides that a noncitizen who is “ordered removed” “shall” be removed “from the United States within a period of 90-days.”² The same subparagraph goes on to state that this 90-day period is “referred to as the ‘removal period’” in § 1231.³ The 90-day “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 noncitizen, the date of the court's final order; or (iii) if the

² 8 U.S.C. § 1231(a)(1)(A).

³ *Id.*

noncitizen is detained or confined (except under an immigration process), the date the noncitizen is released from detention or confinement.”⁴

43. As interpreted by *Zadvydas*, § 1231 allows for detention beyond the 90-day removal period in limited circumstances, the government should—and previously has—released those non-citizens for whom there is “no reasonable likelihood of . . . removal in the foreseeable future.”⁵ That being said, when the statute is “read in light of the Constitution’s demands, [it] limits an noncitizen’s post-removal-period detention to a period reasonably necessary to bring about that noncitizen’s removal from the United States.”

44. This case is not about the initial authority to detain a noncitizen following a final order of removal. Rather, it concerns the authority of Immigration and Customs Enforcement (ICE) to re-arrest and indefinitely⁶ detain a man who, after a prior period of detention, was released on an Order of Supervision (OSUP) for years precisely because his removal was not significantly likely in the reasonably foreseeable future.

⁴ § 1231(a)(1)(B).

⁵ *Zadvydas v. Davis*, 533 U.S. 678, 690, (2001)

⁶ The words “indefinite” or “indefinitely” when used in this brief to refer to Petitioner’ detention, are meant to describe the length of his detention as “unknown” or an “unspecified period of time.” When given their ordinary meaning Respondents cannot truly claim that Petitioner; detention is anything but indefinite as they have provided no time frame whatsoever for even making the request for travel documents, much less when it believes it will get them.

45. Respondents' authority to detain Petitioner is not boundless. The controlling authority for this scenario is the specific federal regulation governing the revocation of release: 8 C.F.R. § 241.13(i).⁷

46. While 8 U.S.C. § 1231(a) provides the general statutory framework for post-removal-order detention and supervised release, “[t]he revocation of that release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. Specifically, a noncitizen's release may be revoked ‘if, on account of changed circumstances,’ it is determined that “there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.”⁸ Furthermore, the regulations go on to prescribe the process for revocation based on a determination of changed circumstances as follows:

[T]he noncitizen will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the noncitizen an opportunity to respond to the reasons for revocation stated in the notification. The noncitizen may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not

⁷ *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (“This case is not about ICE's authority to detain in the first place... This case is about ICE's authority to re-detain Mr. Nguyen after he was issued a final order of removal, detained, and subsequently released on an OSUP. The DHS regulation, 8 C.F.R. § 241.13(i), applies to non-citizens in Petitioner's situation.”); *See also Escalante, v. Noem, et. al.*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (“[T]his is not your typical first round detainment of a noncitizen awaiting removal. Petitioner was previously detained, then released on supervised release for several years, and his 90-day removal period expired. *Zadvydas*, relied upon by Respondents, dealt with the initial detainment of a noncitizen awaiting removal.”).

⁸ *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *3 (E.D. Cal. July 16, 2025) (quoting 8 C.F.R. § 241.13(i)(2)).

violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.⁹

47. These regulations govern ICE's re-detention of individuals who have been released after a determination was made that they could not be removed. The first step in this process is a necessary determination of changed circumstances. Then, once that determination is made, ICE is required to follow the interview and notice requirements of § 241.13(i)(3).

48. ICE's failure to do either of these things properly provides two independent bases for granting this Petition and request for an injunction. Assuming *arguendo* (but not in no way conceding) that the regulations allow ICE to re-detain noncitizens for whom there has previously been a determination that removal is not reasonably foreseeable, ICE must follow its own regulations, setting forth the process to be followed before re-detention.¹⁰ Specifically, "ICE's decision to re-detain a noncitizen like Petitioner who has been granted supervised release is governed by "ICE's own regulation requiring (1) an individualized determination (2) by ICE that,

⁹ 8 C.F.R. § 241.13(i)(3).

¹⁰ See *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *4–6 (E.D. Cal. July 16, 2025)(discussing the regulatory requirements for re-detention in the context of a habeas petition and request for a TRO seeking the immediate release of a "re-detained" immigrant); see also *Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025)(same); *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)(same).

(3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future”.¹¹

49. There is no evidence that ICE complied with its own regulations in this case. Specifically, Petitioner was not interviewed prior to being re-detained, despite the regulatory requirement that such an interview be conducted if ICE believes that changed circumstances exist which might warrant re-detention. The failure to provide this procedural safeguard emphasizes the unlawfulness of ICE’s action and highlights the arbitrary nature of Petitioner’ re-detention.

50. Simply put, ICE did not follow its own regulations for re-detention set forth in § 8 C.F.R. §241.13(f),(i) and, even if it claims it did, there is no evidence of changed circumstances specific to Petitioner that would make his removal reasonably foreseeable—which is necessary for re-detention under 8 C.F.R. §241.13(i)(2).¹² Accordingly, the instant petition is being filed seeking the Court to Order Petitioner’s immediate release from ICE custody.

51. While *Zadvydas* does not control, its core reasoning illuminates the central question here: what constitutes a *reasonable* period of detention? The answer to that question, and the constitutional permissibility of the detention itself, depends

¹¹ *Id.*; see also *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)).

¹² See *Phan*, 2025 WL 1993735, at *4–6; *Hoac*, 2025 WL 1993771, at *3; *Nguyen*, 2025 WL 1725791, at *3.

entirely on the circumstances. A meaningful distinction must be drawn between the six-month period immediately following a removal order and the re-detention of an individual decades later - after seventeen years of perfect compliance with supervision - who voluntarily appears for a check-in despite knowing full well the great risk with almost certainty that he could be taken into custody. In other words, the analysis for individuals like Petitioner who report to ICE expecting to be detained after years of compliance on OSUP is much different than for noncitizens who have just been ordered removed and are still within the statutory removal period.

52. The “historic purpose of the writ,” as *Zadvydas* reminds us, is “to relieve detention by executive authorities without judicial trial.”¹³ To that end, this Court must ask whether Petitioner’s detention “exceeds a period reasonably necessary to secure removal,”_measuring reasonableness “primarily in terms of the statute's basic purpose, namely, *assuring the [noncitizen's] presence at the moment of removal.*”¹⁴

53. ICE’s detention authority is narrowly circumscribed: it exists solely to ensure an individual’s presence at the moment of removal. That purpose requires only short-term custody immediately preceding a scheduled departure. To confine the Petitioner for months without a departure date or defined endpoint exceeds what is

¹³ 533 U.S. at 699.

¹⁴ *Id.* (emphasis added).

required, imposes unnecessary hardship, and transforms detention from a limited administrative measure into an indefinite deprivation of liberty.

PETITIONER'S FIRST CLAIM FOR RELIEF: ICE'S VIOLATION OF ITS OWN REGULATIONS & STATUTORY VIOLATION

54. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

55. Petitioner's continued re-detention by Respondents without following the process set forth by its own regulations at 8 C.F.R. § 241.13(f),(i) is unlawful as ICE failed to adhere to the revocation procedures set forth at 8 C.F.R. § 241.13(i).¹⁵ As here, “where an immigration regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute . . . and [ICE] fails to adhere to it, the challenged [action] is invalid.”¹⁶ Based on ICE's violations of its own regulations, Petitioner' detention is unlawful and his immediate release is appropriate, particularly given that his removal is not reasonably foreseeable.¹⁷

¹⁵ See *Phan*, 2025 WL 1993735, at 4-6; *Hoac*, 2025 WL 1993771 at *3; *Nguyen*, 2025 WL 1725791

¹⁶ *Nguyen v. Hyde*, 2025 WL 1725791, at *5 (quoting *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017)); see also *Zadvydas*, 533 U.S. at 690 (“The Fifth Amendment's Due Process Clause forbids the Government to ‘depriv[e]’ any ‘person ... of ... liberty ... without due process of law.’ Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.”).

¹⁷ See *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (allowing petitioner's motion for release upon a finding that ICE violated its regulations that implicated a fundamental constitutional right).

**PETITIONER'S SECOND CLAIM FOR RELIEF: SUBSTANTIVE DUE
PROCESS VIOLATION**

56. Petitioner re-alleges and incorporates by reference all the foregoing paragraphs above.

57. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.¹⁸

58. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite re-detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the noncitizen's removal, because any other reading would go beyond the government's articulated interest – to effect the noncitizen's removal.¹⁹ Re-detention is permissible only when removal is reasonably foreseeable and

¹⁸ See e.g., *Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (noncitizens retain substantive due process rights).

¹⁹ See *Kay v. Reno*, 94 F.Supp.2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention – executing removal – is nonsensical.").

supported by changed circumstances. In any instance where ICE determines that circumstances have changed to warrant re-detention, Petitioner must be afforded proper notice. ICE's failure to do so constitutes a clear violation of its own regulations and of the Fifth Amendment's Due Process Clause. Accordingly, ICE's re-detention of Petitioner—after seventeen years of consistent and exemplary compliance—is both unlawful and unconstitutional.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus and direct the Respondents to immediately release Petitioner from custody under reasonable conditions of supervision;
- 3) Immediately Order Respondents not to transfer the Petitioner out of the jurisdiction of this Court while the Petitioner remains in Respondent's custody during the pendency of these proceedings;
- 4) Order Respondents not to remove Petitioner to any country other than Nigeria as it was the only country previously designated by the IJ during removal proceedings held under 8 U.S.C. § 1229a; and
- 5) Grant any other and further relief that this Court deems just and proper.

Dated this 16th day of December of 2025.

Respectfully Submitted,

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