


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO

---

OZGUR ALCAN,  )  
 )  
*Petitioner,* )  
 )  
 v. )  
 )  
**KRISTI NOEM**, Secretary )  
 of the U.S. Department of Homeland )  
 Security; **U.S. DEPARTMENT OF )  
 HOMELAND SECURITY; PAM )  
 BONDI**, Attorney General of )  
 the United States; **KEVIN RAYCRAFT )  
 Director of the Detroit Field Office of U.S. )  
 Immigration and Customs Enforcement; )  
 and **KEVIN GRATHWOHL** Warden, )  
**BUTLER COUNTY CORRECTIONAL )  
 COMPLEX,** )  
 in their official capacities, )  
 )  
*Respondents.* )**

---

Case No. \_\_\_\_\_

**PETITION FOR WRIT OF HABEAS  
CORPUS PURSUANT TO 28 U.S.C.  
§ 2241, AND DECLARATORY  
JUDGMENT**

**INTRODUCTION**

1. Petitioner Ozgur Alcan has been incarcerated since November 14, 2025, over a month ago. Petitioner’s detention became unconstitutional six months after the removal order in his case became administratively final. Removal is not reasonably foreseeable. Accordingly, to vindicate Petitioner’s statutory and constitutional rights and to put an end to his continued arbitrary detention, this Court should grant the instant petition for a writ of habeas corpus.

2. Petitioner’s detention is not reasonably foreseeable, as the Petitioner is stateless, because Turkey is not a country the Petitioner can be removed to due to his asylum application and claim. Absent an order from this Court, Petitioner will likely remain detained for many more months, if not years.

3. Petitioner asks this Court to find that his prolonged incarceration is unreasonable and to order his immediate release.

### **JURISDICTION**

4. Petitioner is detained in civil immigration custody at Butler County Correctional Complex in Hamilton, Ohio. He has been detained since or about November 14, 2025. He has not received an individualized bond hearing before an immigration judge (IJ).

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### **VENUE**

7. Venue is proper because Petitioner is detained at Hamilton, Ohio, which is within the jurisdiction of this District.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e), because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to her claims occurred in this district, and no real property is involved in this action.

### **PARTIES**

9. Petitioner is a citizen of Turkey, was ordered removed following proceedings under 8 U.S.C. § 1229a, He has been detained for over one month and is currently detained at Butler

County Correctional Complex. He is the custody, and under the direct control, of Respondents and their agents.

10. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is empowered to carry out any administrative order against Petitioner and is a legal custodian of Petitioner.

11. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA. DHS oversees ICE and the detention of noncitizens. DHS is a legal custodian of Petitioner.

12. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and oversees the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

13. Respondent Kevin Raycraft is sued in his official capacity as the Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement. Respondent Raycraft is a legal custodian of Petitioner and has authority to release him.

14. Respondent Beau Sneddon is the Warden of Butler County Correctional Complex, and he has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens and is a legal custodian of Petitioner.

#### **STATEMENT OF FACTS**

15. Petitioner is a 25 year-old citizen of Turkey.

**Proceedings Before the Immigration Court and BIA / Department of Homeland Security**

16. Petitioner arrived in the United States April 7, 2022 from Turkey.
17. Petitioner has filed an asylum application

### LEGAL FRAMEWORK

18. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).

19. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See Id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

21. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f 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 “[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.”

22. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

23. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen’s due process right to liberty. *Id.* at 701. In this circumstance, if the noncitizen “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.*

24. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any

other justification.

25. The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive detention based on dangerousness” is permitted “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

26. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If removal is reasonably foreseeable, “the habeas court should consider the risk of the [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.

27. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that “Congress previously doubted the constitutionality of detention for more than six months” and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Due Process**

28. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

29. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

30. Petitioner has been detained by Respondents for over one month. Over one month of this prolonged detention has taken place *after* his removal period began.

31. Petitioner’s prolonged detention is not likely to end in the reasonably foreseeable future. Due to no country the Petitioner is removable to and no alternative country is available. Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and thus violates due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

32. For these reasons, Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO**  
**Violation of 8 U.S.C. § 1231(a)**

33. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

34. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention “beyond the removal period” only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 (“[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.”). Because Petitioner’s removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a). “After a final removal order is entered, an alien ordered

removed is held in custody during a 90-day removal period. If the alien is not removed in those 90 days, the post-removal-period detention statute authorizes further detention or supervised release...” *Id.*

**PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (5) Grant any further relief this Court deems just and proper.

**Respectfully Submitted,**

**/s/ Gus Shihab  
Ghassan “Gus” Shihab  
Ohio Bar Number 0061098  
Law Firm of Shihab & Associates  
5900 Wilcox Pl.  
Dublin, Ohio 43016  
Tel. 614-255-4872  
Fax. 614-255-4870  
Email: gus@shihab.law**

Counsel for Petitioner  
Dated: December 23, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that on December 23, 2025, the foregoing *Petition* was served on the following through the CM/ECF system:

**KRISTI NOEM, SECRETARY  
U.S. DEPARTMENT OF HOMELAND  
SECURITY,**

**U.S. DEPARTMENT  
OF HOMELAND SECURITY,**

**PAM BONDI, ATTORNEY GENERAL  
OF THE UNITED STATES**

**KEVIN RAYCRAFT, DIRECTOR OF  
THE FIELD OFFICE OF ICE**

**KEVIN GRATHWOHL, WARDEN OF THE  
BUTLER COUNTY CORRECTIONAL  
COMPLEX**

**Respectfully Submitted,**

**/s/ Gus Shihab  
Ghassan "Gus" Shihab  
Ohio Bar Number 0061098  
Law Firm of Shihab & Associates  
5900 Wilcox Pl.  
Dublin, Ohio 43016  
Tel. 614-255-4872  
Fax. 614-255-4870  
Email: gus@shihab.law**