

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

KINGSLY NDONKU WATARD,

A 

Petitioner/Plaintiff,

v.

RAFAEL VERGARA, Warden,
Adams County Correctional Center,
TODD LYONS, Acting Director, Immigration
and Customs Enforcement, KRISTI NOEM,
Secretary of United States Department of
Homeland Security, MELISSA HARPER,
Immigration and Customs Enforcement,
New Orleans Field Office Director,
PAMELA BONDI, United States Attorney General,

Respondents/Defendants

Civil Action No. 5:25-cv-172-DCB-RPM

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

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
DEC 29 2025
BY ARTHUR JOHNSTON
DEPUTY

INTRODUCTION

1. Petitioner, Kingsly Ndonku Watard, is in the physical custody of Respondents at the Adams County Correctional Center at 20 Hobo Fork Road, Natchez, Mississippi. He now faces unlawful detention because the Department of Homeland Security (DHS) has continued to detain Petitioner despite being granted Withholding of Removal pursuant to § 241(b)(3)(B) of the Act. It has been over ninety (90) days since the Petitioner was granted relief and yet he remains detained.

2. Rather than release him from custody, Immigration and Customs Enforcement (ICE) has held him in prolonged indefinite detention without conducting the necessary custody reviews and without providing Mr. Watard notice of such reviews and notice of ICE's decisions around his custody.

3. Mr. Watard was a victim of persecution in his country of Cameroon and came to the United States to seek refuge. Despite being granted withholding of removal under § 241(b)(3)(B) of the Act, ICE has detained him for over a year, well beyond the presumptively reasonable six-month period established by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). ICE has left Mr. Watard to languish in custody, exacerbating the depression, anxiety, and Post Traumatic Stress Disorder (PTSD) he suffers from due to the trauma caused by being persecuted in Cameroon.

4. Mr. Watard's detention violates 8 U.S.C. § 1231(a)(6), and he is entitled to immediate release. His prolonged detention also violates both the substantive and procedural guarantees of the Fifth Amendment's Due Process Clause because it is not reasonably related to Section 1231's primary purpose of ensuring his imminent removal, and ICE's internal custody review processes do not meet the minimum procedural safeguards that due process requires. *See id.* at 690-91.

5. Mr. Watard requests that this Court grant him a Writ of Habeas Corpus, ordering Respondents to immediately release him from custody.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at Adams Correctional Center in Natchez, Mississippi.

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

8. 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

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of Mississippi, the judicial district in which Petitioner currently is detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Mississippi.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless, for good cause, additional time, not exceeding twenty days, is allowed.” *Id.*

12. Habeas corpus is “perhaps the most important writ known to constitutional law. affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

13. Petitioner KINGSLY NDONKU WATARD is a citizen of Cameroon who has resided in the United States since November 2024. He has been in immigration detention since December 2024.

14. Respondent Melissa Harper is the ICE Field Office Director for the New Orleans Field Office, which includes Adams County Correctional Center. As such, Melissa Harper is the Petitioner's immediate custodian and is responsible for the Petitioner's detention and removal. She is named in her official capacity.

15. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA) and oversees ICE, which is responsible for the Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

16. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

17. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of the Petitioner. He is sued in his official capacity.

18. Respondent Rafael Vergara is the Warden of Adams Correctional Center, where Petitioner is currently detained. He is an immediate custodian of the Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

19. Petitioner is a national of Cameroon. He entered the United States to seek asylum in November 2024 and has been detained ever since.

20. After he was detained at the border, DHS placed Petitioner in removal proceedings before the LaSalle Immigration Court in Jena, Louisiana, pursuant to 8 U.S.C. § 1229a, by filing a Notice to Appear.

21. ICE charged Petitioner with, *inter alia*, being inadmissible under U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection. *Id.*

22. Petitioner was granted withholding of removal from Cameroon on September 10, 2025, after an immigration judge found he was eligible for said relief.

23. Petitioner believes ICE conducted a partial review of his custody in October of 2025 but since that time he has received no information or results of the review.

LEGAL FRAMEWORK

Mr. Watard has been detained for thirteen months with no indication that he will be released or removed from the United States

24. After being granted withholding of removal under the Act, Mr. Watard expected that he would immediately be released from immigration detention. However, he was not released, and ICE did not proactively communicate with him about his custodial status. ICE has conducted one partial custody review in October 2025.

25. Pursuant to 8 CFR § 241.4, ICE ERO must conduct reviews of detention every ninety (90) days. Failure to conduct these reviews has been found to be a violation of substantive due process. *See e.g. Jimenez v. Cronen*, 317 F. Supp.3d. 626 (D. Mass. 2018).

26. ICE ERO has generally followed a policy of paroling or releasing individuals on their own recognizance following the grant of relief by an immigration judge. *See* Immigration & Customs Enforcement, Policy Memorandum: Detention Guidance (Feb. 9, 2004), <https://www.aila.org/ice-favors-release-of-aliens-granted-relief>. The only exceptions to

release listed in the policy memorandum include concerns such as national security or danger to the community. *Id.*

27. ICE has the authority to release detained individuals pursuant to INA § 212(d)(5)(A). This permits the Attorney General, at his or her discretion, to “parole” any noncitizen into the United States “temporarily under such conditions as [she or] he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” *See* INA § 212(d)(5).

28. ICE also has authority to grant release or parole under INA § 236(a) which authorizes the detention of aliens pending removal proceedings and permits aliens who are not subject to mandatory detention to be released on bond or on their own recognizance. INA § 236(a)(2) states that “the Attorney General may . . . release the alien on (A) bond of at least \$1500 with security approved by, and continuing conditions prescribed by, the Attorney General, or (B) conditional parole.”

29. Failure to release Petitioner creates an unreasonable period of continued detention where removal from the United States is not “reasonably foreseeable” under 8 USC § 1231(a)(6). The Supreme Court has defined the presumptively reasonable period of time to effect removal as six months. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). Following *Zadvydas*, the *Clark* Court found that an inadmissible person must be released after six months where their removal is not reasonably foreseeable. *See Clark v. Martinez*, 543 U.S. 371 (2005).

30. Mr. Watard’s detention has been extremely burdensome on him, exacerbating the PTSD, depression, and anxiety he has experienced because of the persecution he suffered in Cameroon. He struggles with constant anxiety and often feels desperate and afraid. He loses track of time for days or weeks on end and loses the desire to interact with others, including his family.

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE IMMIGRATION AND NATIONALITY
ACT – 8 U.S.C. § 1231

31. Mr. Watard re-alleges and incorporates by reference each allegation contained above.

32. Mr. Watard is detained pursuant to the discretionary, post-removal period detention provision, Section 1231(a)(6), because more than ninety days of detention have elapsed since his removal order became administratively final. *See* 8 U.S.C. § 1231(a)(1)(A) & (B); 8 C.F.R. § 1241.1.

33. In *Zadvydas*, the Supreme Court was clear that “a statute permitting indefinite detention of an alien would present a serious constitutional question.” 533 U.S. at 690. “If removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* 533 U.S. at 699-700. The Court construed § 1231 to contain an implicit temporal limitation of six months, after which detention is no longer presumptively reasonable. *Id.* at 690, 701. After that point, “if a detainee ‘provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,’ . . . [and] the government fails to rebut the detainee’s assertion, he must be released.” *Singh*, 945 F.3d at 1313-14 (quoting *Zadvydas*, 533 U.S. at 701).

34. Mr. Watard’s detention under §1231 is not presumptively reasonable because he has been detained for thirteen months despite having been granted withholding of removal under the Act. While the government has stated that it intends to deport him to a third country, it has not done so and has not informed Mr. Watard where he would be sent. Moreover, Mr. Watard has the

right to present to the immigration judge his fear of being deported to any third country to which the U.S. should attempt to remove him

35. For the foregoing reasons, Mr. Watard’s detention violates §1231, and he is entitled to immediate release from custody.

COUNT TWO

**VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION**

36. Mr. Watard re-alleges and incorporates by reference each allegation contained above.

37. 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. “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*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

38. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. See *id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Demore v. Kim*, 538 U.S. 510 at 528 (2003).

39. Prolonged civil detention also violates due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Zadvydas* at 690-91; *Foucha*, 504 U.S. at 81-83; *Kansas v. Hendricks*, 521 U.S. at 346, 364-69 (1997); *United States v. Salerno*, 481 U.S. 739, 750-752 (1987).

40. Mr. Watard's prolonged civil detention, which has lasted for three months after he was granted withholding of removal, and which is likely to continue indefinitely, is not reasonably related to the primary statutory purpose of ensuring his imminent removal.

41. To determine whether Mr. Watard's ongoing detention remains justified, ICE is required to conduct post-order custody reviews pursuant to 8 C.F.R. § 241.4. Mr. Watard had not been provided paperwork or notification that ICE conducted such reviews or how ICE came to the decision that he should remain in custody. He has only been informed that "headquarters denied your release." Under 8 C.F.R. §241.4(d), "a copy of any decision by the District Director, Director of the Detention and Removal Filed Office, or Executive Associate Commissioner to release or to detain an alien shall be provided to the detained alien. A decision to retain custody shall briefly set forth the reasons for the continued detention." Mr. Watard has not been provided a copy of any decision setting forth the reasons why ICE has decided that he should remain in custody. Nor has he been served with any "notices, decisions, or other documents in connection with custody reviews" pursuant to 8 C.F.R. §241.4(d)(2) in accordance with 8 CFR §103.8.

42. Under DHS regulations, custody reviews are supposed to occur within 90 days, 180 days, and 18 months of confinement. 8 C.F.R. 241.4(k)(1)(i). Mr. Watard is entitled to certain rights with respect to this review, including the rights to receive written notice of the review, to submit information in writing to support release and to be assisted by any individual of his choosing in preparing or submitting information in response to the notice. *See id.* §241.4(h)(1)-(2). Mr. Watard has not been provided notice of, nor been afforded the opportunity to participate in any custody reviews during the seventh months that he has been detained by ICE after the IJ granted withholding of removal.

43. Mr. Watard has likewise not been provided the opportunity to demonstrate that he is not a danger to the community or to the safety of other persons or a significant risk of flight pursuant to 8 C.F.R. §241.4 (d)(1).

44. The internal post-order custody reviews ICE conducted in Mr. Watard's case, if indeed they conducted such reviews, do not meet the minimum procedural safeguards required by due process to justify his continued detention. See *Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011) (abrogated on other grounds by *Rodriguez Diaz v. Garland* 53 F.4th 1189 (9th Cir. 2022)).

45. The government's failure to provide Mr. Watard with the custody reviews required by regulations also violates *Mathews v. Eldrige*, 424 U.S. 319 (1976). In *Mathews*, the Supreme Court articulated a balancing test for deciding what procedures are required to comport with due process when there has been a deprivation of liberty. *Id.* at 334-35. The government must consider 1) the private interest affected; 2) the risk of erroneous deprivation of such interest; 3) the government's interest. *Id.* at 335. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Id.* at 333. There is no indication that the government followed any of the legally required procedures to determine that Mr. Watard should remain in custody. Mr. Watard has not been afforded any right to be heard with respect to his continued detention. Thus, the government's failure to weigh the factors set forth in *Mathews* and afford Mr. Watard the opportunity to be heard constitutes of violation of Procedural Due Process. *Id.* at 331.

46. Considering the foregoing, Mr. Watard's detention violates both substantive and procedural due process.


PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter.
2. Order that Mr. Watard shall not be transferred outside the Southern District of Mississippi.
3. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Watard from custody.
4. Issue an Order to Show Cause why this Petition should not be granted within three days and set a hearing on this Petition within five days of the return pursuant to 28 U.S.C. § 2243.
5. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Mr. Watard.
6. Declare that Mr. Watard's detention violates the Immigration and Nationality Act.
7. Declare that Mr. Watard's detention violates the Due Process Clause of Fifth Amendment.
8. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.
9. Grant such further relief as this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this the 23rd day of December, 2025.



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