





Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable. Petitioner contends his unlawful detention violates section 241(b)(5) (8 U.S.C. § 1231(b)(5)) and other provisions of the US Immigration and Nationality Act. Petitioner/ also files this action for declaratory and injunctive relief to protect his rights under both the Due Process Clause of the Fifth Amendment to the United States Constitution and applicable Federal law. In support of his petition, he respectfully alleges:

### **I. CUSTODY**

1. Petitioner is in the custody of U.S. Immigration and Customs Enforcement (hereinafter referred to as “ICE”) and has been since May 7, 2025. He is currently detained in Angola, Louisiana at the detention Center contracted by DHS and the Bureau of Immigration and Customs Enforcement. Mr. Saymeh’s detention is determined by the Respondents and their agents.

### **II. JURISDICTION**

2. This Court has habeas jurisdiction pursuant to 28 U.S.C. § 2241; Art. I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

3. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. See, e.g., *Zadvydas*, 533 U.S. at 687.

4. Federal courts also have federal question jurisdiction, through the APA, to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable

on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. Respondents’ continued detention of Petitioner up to and past the 90-day removal period has adversely and severely affected Petitioner’s liberty and freedom.

5. Finally, this Court has mandamus jurisdiction pursuant to 28 U.S.C. § 1361.

### III. VENUE

6. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1). Petitioner is detained by the Bureau of Immigration and Customs Enforcement, a division of the Department of Homeland Security (DHS) at the Louisiana ICE Processing Center 18198 Tunica Trace, Bldg E, Angola, LA 70712. This clearly constitutes the requisite ‘custody’ under 28 U.S.C. § 2241. *Zalawadia v. Ashcroft*, 371 F.3d 292, 297 (5<sup>th</sup> Cir. 2004) (‘The Supreme Court has made it clear that the “in custody” determination is made at the time the habeas petition is filed.’ (citations omitted).)

7. Venue lies in the Middle District Court of Louisiana, the judicial district where Petitioner is currently detained. 28 U.S.C. § 2241 *et seq.*; *see also Lee v. Wetzel*, 244 F.3d 370, 373 (5<sup>th</sup> Cir. 2001).

**IV. PARTIES**

8. Mr. Saymeh was born on the West Bank and is Palestinian. He is stateless. He was granted Voluntary Departure on June 30, 1994 in New Orleans, LA. ICE detained Respondent after his appeal was dismissed by the BIA in September of 2000. At that time, no country would accept Petitioner and he was released in the United States.

9. Respondent, Pam Bondi, is sued in her official capacity as Attorney General of the United States. In this capacity, she has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103, is a legal custodian of Mr. Saymeh (and as such, is explicitly authorized to release or detain Mr. Saymeh under 8 U.S.C. § 1231(a)), and is empowered to carry out the removal of Mr. Saymeh.

10. Respondent, Kristi Noem, is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Mayorkas is the ultimate legal custodian of Petitioner. He is sued in his official capacity.

11. Respondent, Tom M. Lyons, is sued in his official capacity as the Commissioner of ICE. In that capacity, he has the responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103, is a legal custodian of Mr. Saymeh, and is empowered to carry out the removal order against Mr. Saymeh.


12. Defendant, Scott Ladwig, is Acting New Orleans ICE Field Office Director and therefore is responsible for ICE policies and operations in the New Orleans District,

which stretches across Alabama, Arkansas, Louisiana, Mississippi, and Tennessee. He is named in his official capacity only.

13. ICE and Department of Homeland Security are the agencies responsible for enforcing the entire Immigration and Nationality Act, including its detention provisions.

#### V. FACTUAL ALLEGATIONS/STATEMENT OF FACT

*Mr. Saymeh has found on four separate occasions that there is no Significant Likelihood of Removal in the Reasonably Foreseeable Future, yet has been detained for over 180 days with no new evidence from ICE.*

14. On October 06, 1990, Mr. Saymeh entered the United States through New York City, on a B2 (Temporary Visitor for Pleasure/Tourism), under I-94 Admission Number . On April 05, 1991, his B2 visa expired, and he did not depart the United States. On June 30, 1994, an Immigration Judge denied Mr. Saymeh's asylum and withholding of removal petition but granted him Voluntary Departure. If Petitioner did not voluntarily depart by August 15, 1994, he was ordered removed to Honduras or alternatively to Jordan.

15. On October 27, 1994, Mr. Saymeh appealed the Immigration Judge decision to the Board of Immigration Appeals (referred to hereinafter as "BIA"). On September 13, 2000, the BIA dismissed the appeal. On July 25, 2002, the Fifth Circuit Court of Appeals affirmed the BIA's denial.

16. On August 20, 2010, Enforcement and Removal Operations (hereinafter referred to as "ERO") in Baton Rouge encountered Mr. Saymeh at the East Baton Rouge Jail in Louisiana and placed an I-247 immigration detainer. On September 29, 2010, ERO Baton Rouge arrested Mr. Saymeh following his release from the East Baton Rouge Jail. On April

11. 2011, ERO Oakdale released Mr. Saymeh on an Order of Supervision (referred to hereinafter as "OSUP") due to no Significant Likelihood of Removal in the Reasonably Foreseeable Future (referred to in the I-213 and referred to hereinafter as "SLRRFF") (See Exh. A).

17. On July 8, 2011, the Immigration Officials encountered Mr. Mr. Saymeh at East Baton Rouge Jail pursuant to an alien response alert and placed an I-247A; immigration detainer. ERO Baton lifted the immigration detainer due to no SLRRFF and scheduled Mr. Saymeh a new OSUP report date. On February 17, 2012, the PERC encountered Mr. Saymeh at East Baton Rouge Jail pursuant to an alien response alert, yet took no action due to subject's OSUP awaiting travel document status.

18. On August 20, 2014, Mr. Saymeh filed a motion to reopen with the BIA. That motion was denied.

19. On February 27, 2018, the Immigration encountered Mr. Saymeh at East Baton Rouge Jail pursuant to an alien response alert and placed an I-247A, immigration detainer. On September 3, 2018, ERO Baton Rouge lifted the immigration detainer and scheduled him a new OSUP report date.

***Mr. Saymeh was Re-Arrested on May 7, 2025 and has continued to be detained for more than 7 Months due to ICE's Inability to Procure the Necessary Travel Documents.***

18. On May 7, 2025, ERO issued Mr. Saymeh a revocation of Order of Supervision at the Lafayette Sub-Office during a routine OSUP check ins. ERO had no new documentation that his removal was likely in the foreseeable future when his OSUP was revoked. He has been detained since that date.

19. ICE has failed to respond or administer the 90 day Post Order Custody Review and the 180 day Post Order Custody Review in violation of 8 C.F.R. 241.4; 241.13; & 241.14.

20. Mr. Saymeh fulfilled his obligation to check in with ICE under his Order of Supervision that was issued in 2011.

21. Mr. Saymeh had already been detained for 185 days from 9/29/2010 to 4/11/2011 when Immigration Enforcement and Removal Operations determined that there was no Significant Likelihood of Removal in the Reasonably Foreseeable Future.

22. Immigration Enforcement and Removal Operations lifted detainers on 3 additional occasions against Mr. Saymeh and determined that there was no Significant Likelihood of Removal in the Reasonably Foreseeable Future.

23. Despite multiple requests through Petitioner's counsel ICE has still not produced any evidence that there is a Significant Likelihood of Removal in the Reasonably Foreseeable Future. ICE is authorized to detain Petitioner only within the rules proscribed by the INA, the agency's enabling statute, and other applicable law. *See Clark v. Martinez*, 125 S. Ct. 716 (2005) (8 U.S.C. § 1231 authorizes detention for the sole purpose of effecting removal).

24. Mr. Saymeh has been compliant with ICE and held in detention for over 180 days without an opportunity for release.

***Released on Order of Supervision, Mr. Saymeh will benefit from the Emotional and Financial Support of Family and Friends***

25. Mr. Saymeh is a 62-year-old Palestinian born on the West Bank. He entered the United States on October 6, 1990 under a visitor visa. He is under a final order of removal pursuant to Section 241(a)(1)(B) of the Immigration and Nationality Act (Exh B).

26. Mr. Saymeh has worked very hard to build a life for his wife and USC children, and he has helped family and friends in many ways.

27. Mr. Saymeh is a business owner, an entrepreneur and a leader in the community. Between the time of his release in April 2011 and the subsequent un-explained re-arrest by ICE, Mr. Saymeh worked, paid taxes, and was an active member of his community. He volunteered at multiple organizations, carried out social responsibilities, both charitable and religiously, and was an integral part of the community.

28. Without intervention from this Court, Mr. Saymeh will face indefinite detention, possibly for several years or even the remainder of his life. He has spent over 6 months in detention on 2 occasions, and no travel document has been issued during those 13 plus months. No travel document has been issued during his 14 plus years under the Order of Supervision with which he has complied. There is no Significant Likelihood of Removal in the Foreseeable Future.

**VI. EXHAUSTION**

29. Presently, Petitioner's has exhausted his administrative remedies to the extent required by law and his only remedy is by way of this judicial action.

30. After the Supreme Court's decision in *Zadvydas*, Attorney General Ashcroft issued a memorandum outlining how noncitizens may seek release from custody pursuant to *Zadvydas*. See Notice of Memorandum, Attorney General John Ashcroft, Post-Order Custody Review After *Zadvydas v. Davis*, 66 Fed. Reg. 38, 433 (July 24, 2001) ("Ashcroft Memorandum"). Under the procedures of the Ashcroft Memorandum, Mr. Saymeh filed a written request for release from ICE custody on August 25, 2025 and September 26, 2025. (Exh C) No response was received on either of these. By failing to respond, the Services Headquarters Post-Order Detention Unit has violated the provisions of 8 CFR Section 241.13. 31. A custody review hearing took place on December 18, 2025, but the immigration judge would not order Saymeh's release. Neither the Ashcroft Memorandum nor ICE's custody review procedures outlined in 8 C.F.R. § 241.4 provide another method for obtaining release from ICE. Notice of the filing of this habeas petition was issued to DHS on November 20, 2025. (Exh D) Said letters to DHS included the following personal documents for Saymeh:

- Birth certificate of Saymeh
- Birth certificates of Saymeh's USC children
- Marriage certificate

32. No petition for habeas corpus has previously been filed with this Court to review Petitioner's indefinite detention.

## VII. LEGAL FRAMEWORK FOR RELIEF SOUGHT

33. Courts have consistently held "habeas corpus as an appropriate vehicle through which noncitizens may challenge the fact of their civil immigration detention." *Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 336 (S.D. Tex. 2020) (citing *Zadvydas*, 533 U.S. at

688, and *Rodriguez*, 138 S. Ct. 830 (2018) (ruling on merits of habeas petition challenging validity of indefinite mandatory detention)).

34. Mr. Saymeh's petition is not barred as he is not seeking to collaterally attack his final removal order. *Zadvydas*, 533 U.S. at 688 ("The aliens here, however, do not seek review of the Attorney General's exercise of discretion; rather, they challenge the extent of the Attorney General's authority under the post-removal-period detention statute. And the extent of that authority is not a matter of discretion . . . [therefore we] conclude habeas corpus proceedings remain available. . . .").

35. Under INA § 241(a)(1), ICE is ordered to remove noncitizens within 90 days of of detention upon receiving a final order of removal. Where ICE fails to effectuate removal within the statutorily prescribed three-month period, it may only detain noncitizens for the additional period of time necessary to secure removal. See *Zadvydas*, 533 U.S. at 699- 700

36. In *Zadvydas*, the Supreme Court held that six months is the presumptively reasonable period for removal. See *id.* at 701. In the aftermath of the Supreme Court's decision, the Department of Homeland Security issued regulations governing the timelines under which detainees should be released after the statutorily prescribed period has passed.

37. Mr. Saymeh is unlawfully in custody pursuant to INA § 241(a)(6), 8 U.S.C. § 1231(a)(6) (2018) ("Section 241"). Under *Zadvydas*, that provision prohibits the indefinite detention of noncitizens who (i) cannot be repatriated in the reasonably foreseeable future, and (ii) pose no threat to the community. Any such detention is unconstitutional. See *Zadvydas*, 533 U.S. at 689.

38. There is no indication from the statute nor the regulation that the clock for removal is reset upon re-detention. However, if Mr. Saymeh's clock did reset upon his re-detention, more than 7 months have elapsed and the government has been unable to carry out his removal. This is a clear violation of the time requirements set forth in the governing statute and attendant regulations. *Zadvydas*, 533 U.S. at 699; *Clark v. Martinez*, 543 U.S. 371, 378-79 (2005); *Tran v. Mukasey*, 515 F.3d 478, 484 (5th Cir. 2008).

39. Due to Mr. Saymeh being Palestinian, the countries of Israel, nor Jordan, nor Honduras will issue a travel document to him.

40. ICE has failed to produce any evidence that any country will issue a travel document for Mr. Saymeh. Under the regulations issued to conform post-order detention procedures to the *Zadvydas* decision, Mr. Saymeh does not fall within any of the "special circumstance[s]" described in 8 C.F.R. § 241.14. Mr. Saymeh does not pose any special danger. Prior to his new 6 month detention, he was an integral member of his community and obeyed all requirements of his order of supervision.

41. Mr. Saymeh has an extensive network of friends and family in the United States. They stand ready to support and help him any way possible. ICE cannot show and special dangerous to the community required by DHS regulations for continued custody.

42. For the foregoing reasons, Mr. Saymeh's continued detention is not authorized by statute or regulation and is violative of his due process rights to be free from arbitrary detention as described in *Zadvydas*. His indefinite detention is unconstitutional and he should be released immediately from ICE custody.

**VIII. CLAIMS OF RELIEF SOUGHT**

**Count 1 - Statutory Violation**

43 Mr. Saymeh realleges and incorporates reference paragraphs 1 through 42 above.

44. Mr. Saymeh's continued detention by the Respondents violates INA § 241(a)(6), as interpreted by *Zadvydas*. Mr. Saymeh's ninety-day statutory removal period and six month presumptively reasonable period for continued removal efforts passed long ago.

45. The Supreme Court held in *Zadvydas* that the continued detention of someone like Mr. Saymeh is unreasonable and unauthorized by section 241 of the INA.

**Count 2 - Substantive Due Process Violation**

46 Mr. Saymeh realleges and incorporates reference paragraphs 1 through 42 above.

47. Mr. Saymeh's continued detention violates his right to substantive due process because he is being deprived of his liberty to be free from bodily restraint. The Due Process Clause of the Fifth Amendment requires that the deprivation of Mr. Saymeh's liberty be narrowly tailored to serve a compelling government interest. While the Respondents would have a compelling government interest in detaining Mr. Saymeh in order to effect his deportation, that interest does not exist if Mr. Saymeh cannot be deported. *Zadvydas* thus interpreted INA § 241 to allow for continued detention only when reasonably necessary to secure the noncitizen's removal. Mr. Saymeh will not be removed from the United States. Indefinite detention is unconstitutional in circumstances such as those that exist here.

**Count 3 - Procedural Due Process Violation**

48. Mr. Saymeh realleges and incorporates reference paragraphs 1 through 42 above.

49. Under the Due Process Clause of the United States Constitution, a noncitizen is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Mr. Saymeh has been denied this opportunity. No administrative mechanism is in place for Mr. Saymeh to secure review of his parole release request that should have been granted in light of both *Zadvydas* and *Frailhat*.

**Count 4 - Habeas Authority to Order Release from Unlawful Detention**

48. Mr. Saymeh realleges and incorporates reference paragraphs 1 through 42 above.

49. The Court has broad, equitable authority under the habeas statute, 28 U.S.C. §§ 2241, 2243 and the common law, to end Mr. Saymeh's unlawful detention.

50. The Court should exercise its authority to grant Mr. Saymeh's habeas corpus petition and to fashion any and all additional relief, necessary to effectuate his expeditious release from unlawful detention. In the absence of such relief, Mr. Saymeh is suffering, and will continue to suffer, irreparable harm.

**Count 5 - Fees & Costs**

51. Petitioner requests attorney's fees and costs under 28 U.S.C. § 2412 (1976), amended by Equal Access to Justice Act ("EAJA"), Pub. L. No. 86-481, 94 Stat. 2325 (1980).

**IX. PRAYER FOR RELIEF.**

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

- Grant Mr. Saymeh a writ of habeas corpus directing the Respondents to immediately release Mr. Saymeh from custody;
- Or in the alternative issue an immediate rule to show cause ordering DHS/ICE to produce evidence that his removal is reasonably foreseeable.
- Award to Mr. Saymeh his reasonable costs and attorney fees; and
- Grant any other relief which this Court deems just and proper.

Dated: January 5, 2026

Respectfully submitted,

Luke H. Abrusley

s/ Luke H. Abrusley

Luke H. Abrusley

Bar #32085

P.O. Drawer 1299

Oakdale, LA 71463

(318) 335-2222

fax: (318)335-1884

e-mail:

lukeabrusleylawllc@gmail.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 5, 2026, a copy of the foregoing

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS AND COMPLAINT FOR  
DECLARATORY RELIEF AND MOTION FOR IMMEDIATE RULE TO SHOW  
CAUSE HEARING

was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this  
filing will be sent to:

US Attorney's Office

by operation of the court's electronic filing system.

s/ Luke Abrusley  
Luke Abrusley  
Bar #32085  
P.O. Drawer 1299  
Oakdale, LA 71463  
(318) 335-2222  
fax: (318)335-1884  
e-mail:  
lukeabrusleylawllc@gmail.com