

3:26-cv-00100-DMS-SBC Zedingle v. Noem et al

Dana M. Sabraw, presiding

Steve B. Chu, referral

Date filed: 01/07/2026

Date of last filing: 01/15/2026

History

Doc. No.	Dates	Description
<u>1</u>	<i>Filed:</i> 01/07/2026 <i>Entered:</i> 01/08/2026	 Petition for Writ of Habeas Corpus
<u>2</u>	<i>Filed & Entered:</i> 01/08/2026	 Declaration
<u>3</u>	<i>Filed & Entered:</i> 01/08/2026	 Order
<u>4</u>	<i>Filed & Entered:</i> 01/13/2026	 Notice of Appearance
<u>5</u>	<i>Filed & Entered:</i> 01/15/2026	 Return to Petition
<u>6</u>	<i>Filed & Entered:</i> 01/15/2026	 Traverse

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10 **UNITED STATES DISTRICT COURT FOR THE**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 Tirhas Zedingle,
13
14 Petitioner,

15 v.

16 Kristi Noem, Secretary, Department of
17 Homeland Security; Todd Lyons, in his Official
18 Capacity as Acting Director of U.S.
19 Immigration and Customs Enforcement (Ice);
20 Pam Bondi, Attorney General of the United
21 States; Gregory J. Archambeault, Director, San
22 Diego Field Office, Immigration and Customs
23 Enforcement; Christopher J. Larose, Warden,
24 Otay Mesa Detention Center.

25 Respondents.

No. '26CV0100 DMS SBC

**Petition for Writ of Habeas
Corpus**

Immigration Case

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INTRODUCTION

1. Petitioner files this petition for writ of habeas corpus seeking her release from the custody of the Department of Homeland Security (DHS). Petitioner is detained at the Otay Mesa immigration detention facility.

2. Petitioner is a native of Eritrea who is the subject of a final order of removal that was entered by an immigration judge on March 27, 2002.

3. She was held in immigration custody until 2002, when she was released on an order of supervision because she could not be removed from the United States.

4. Petitioner reported regularly to DHS on an order of supervision for 23 years.

5. She was taken into immigration custody on October 4, 2025 when she appeared for her regular appointment on her Order of Supervision, and has been held since that time.

6. Petitioner has good reason to believe that she cannot be removed from the United States, shifting the burden to the government.

7. The government has not demonstrated that it now has a reasonable likelihood of removing Petitioner from the United States.

8. There are no changed circumstances warranting Petitioner's re-detention.

9. Petitioner's detention violates the Immigration and Nationality Act, its implementing detention regulations, and his right to Due Process.

JURISDICTION AND VENUE

10. This Court has jurisdiction over the present action based on 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (Federal Question), and 28 U.S.C. § 1346(b) (Federal Respondent).

11. Venue is properly with this Court pursuant to 28 U.S.C. § 1391(e)(1)

1 because this is a civil action in which Respondents are employees or officers of the
2 United States, acting in their official capacity; and a substantial part of the events or
3 omissions giving rise to the claim occurred within the Central District of California,
4 and there is no real property involved in this action.

5 12. Further, pursuant to Braden v. 30th Judicial Circuit Court of Kentucky,
6 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the
7 Southern District of California, the judicial district in which Petitioner is currently
8 detained.

9 **PARTIES**

10 13. Petitioner was born in Eritrea and is a citizen of Eritrea. She is currently
11 detained at the Otay Mesa ICE Processing Center and resides in San Diego, CA.

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

17 15. Respondent Todd Lyons is the Acting Director of ICE and has authority
18 over the operations of ICE. In that capacity and through his agents, Respondent
19 Lyons has broad authority over the operation and enforcement of the immigration
20 laws. Respondent Lyons is sued in his official capacity.

21 16. Respondent Pam Bondi is the Attorney General of the United States. She
22 is responsible for the Department of Justice and is sued in her official capacity.

23 17. Respondent Gregory J. Archambeault is the Immigration and Customs
24 Enforcement Field Office Director for the San Diego field office and is sued in his
25 official capacity. Respondent Archambeault is responsible for the detention of
26 Petitioner.

1 18. Respondent Christopher J. Larose is the Warden of the ICE Otay Mesa
2 Detention Center and is sued in his official capacity. Respondent Larose is
3 responsible for the detention of Petitioner.
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5 **FACTUAL ALLEGATIONS**

6 19. Petitioner was born in Eritrea on  1966 and is 59 years old.

7 20. Petitioner came to the United States in 1990 as a refugee, and became a
8 lawful permanent resident. She has resided continuously in the United States since
9 1990, for 35 years.

10 21. Petitioner married to a United States citizen and has three United States
11 citizen children.

12 22. Petitioner was placed into removal proceedings in ** and was charged
13 with removal for a crime involving moral turpitude, based on her conviction for
14 grand theft for which she was sentenced to 492 days in prison.

15 23. She was detained and held in immigration detention while her case was
16 pending.

17 24. On March 27, 2002, Petitioner was ordered removed and denied
18 protection from removal. She was ordered removed to Ethiopia by the immigration
19 judge, although Petitioner is not a citizen of Ethiopia.

20 25. Petitioner was released from immigration custody on ** and reported
21 regularly under an order of supervision to immigration authorities.

22 26. Petitioner was arrested on October 4, 2025 when she appeared at her
23 regularly scheduled checkin. She is detained at the Otay Mesa immigration facility.

24 27. She was not informed of the reasons for the revocation of release or that
25 the government had obtained travel documents to remove him from the United
26 States.

27 28. Petitioner has been experiencing substantial health issues while detained.
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1 She experienced a stroke while in detention and her family was not alerted to her
2 condition. They fear she may experience even more severe health difficulties.

3
4 **CAUSES OF ACTION**

5 **COUNT ONE**

6 **(VIOLATION OF 8 U.S.C. § 1231(a)(6) AND DUE PROCESS)**

7 **(RE-DETENTION AFTER MORE THAN 180 DAYS IN CUSTODY)**

8
9 29. Petitioner incorporates the allegations in the paragraphs above as though
10 fully set forth here.

11 30. The Immigration and Nationality Act authorizes a post-removal-period
12 detention of six months to allow the United States to effectuate removal. 8 U.S.C. §
13 1231(a)(6). Zadvydas v. Davis, 533 U.S. 678 (2001).

14 31. Once removal is no longer foreseeable, it is a violation of 8 U.S.C. §
15 1231(a)(6) and Due Process to hold a noncitizen in immigration detention.

16 32. Zadvydas places the burden on the alien to show, after a detention period
17 of six months, that there is “good reason to believe that there is no significant
18 likelihood of removal in the reasonably foreseeable future. Pelich v. I.N.S., 329
19 F.3d 1057, 1059 (9th Cir. 2003).

20 33. This is a case involving a re-detention after the 180 days have been served
21 and there has been a release. The burden is now on the government to prove that
22 Petitioner has a significant likelihood of removal in the reasonably foreseeable
23 future. Yan-Ling X. v. Lyons, No. 1:25-CV-01412-KES-CDB (HC), 2025 WL
24 3123793, at *3 (E.D. Cal. Nov. 7, 2025); Nguyen v. Hyde, 788 F. Supp. 3d 144, 152
25 (D. Mass. 2025). That period does not just automatically reset with a new detention
26 25 years later. Nguyen v. Scott, No. 2:25-CV-01398, 2025 WL 2419288, at *13
27 (W.D. Wash. Aug. 21, 2025); Sied v. Nielsen, No. 17-CV-06785-LB, 2018 WL
28 1876907, at *6 (N.D. Cal. Apr. 19, 2018).

1 34. Petitioner has good reason to believe that she cannot be removed from the
2 United States. She was already detained for more than 180 days 23 years ago, and
3 she could not be removed. DHS is not able to remove her to Ethiopia or Eritrea.

4 35. The burden therefore shifts to the government provide evidence sufficient
5 to demonstrate that removal is reasonably foreseeable¹. Zadvydas v. Davis, 533
6 U.S. at 701.

7 36. The government is unable to establish that Petitioner's removal is
8 reasonably foreseeable.

9 37. Petitioner's continued detention is a violation of 8 U.S.C. § 1231(a)(6)
10 and Due Process.

11 **COUNT TWO**

12 **(Violation of Revocation of Release Regulation, 8 C.F.R. § 241.13(i)(2)**
13 **and Due Process)**

14 38. Petitioner incorporates the allegations in the paragraphs above as though
15 fully set forth here.

16 39. An agency's failure to follow its regulations that are meant to protect
17 fundamental rights is a violation of due process. Accardi v. Shaughnessy, 347 U.S.
18 260, 267, 74 S.Ct. 499, 98 L.Ed. 681 (1954); Sameena Inc. v. U.S. Air Force, 147
19 F.3d 1148, 1153 (9th Cir. 1998).

20 40. DHS regulations authorize the revocation of an order of release only
21 when "if, on account of changed circumstances, the Service determines that there is
22 a significant likelihood that the alien may be removed in the reasonably foreseeable
23 future." 8 C.F.R. § 241.13(i)(2).

24 41. The regulation at 8 C.F.R, § 241.13(i)(2) is designed to protect the
25 fundamental interest of liberty, and the failure to follow the regulation is a violation
26 of due process.

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1 42. This regulation places the burden on the government to demonstrate that
2 there are new circumstances which now establish that removal is reasonably
3 foreseeable, consistent with the requirements of Zadvydas.

4 43. Respondents have violated 8 C.F.R. § 241.13(i)(2) and Petitioner's due
5 process rights by detaining Petitioner without evidence of changed circumstances
6 that her removal is reasonably foreseeable. Gutierrez v. Noem, No. 5:25-CV-02668-
7 DOC-RAO, 2025 WL 3247769, at *4 (C.D. Cal. Oct. 31, 2025) ("Respondents have
8 the burden to establish changed circumstances that make removal significantly
9 likely in the reasonably foreseeable future and have not done so."); Sun v. Noem,
10 No. 3:25-CV-02433-CAB-MMP, 2025 WL 2800037, at *2 (S.D. Cal. Sept. 30,
11 2025) ("ICE's own regulations ... place the burden on ICE to show changed
12 circumstances that make removal significantly likely in the reasonably foreseeable
13 future."); Roble v. Bondi, No. 25-CV-3196 (LMP/LIB), 2025 WL 2443453, at *4
14 (D. Minn. Aug. 25, 2025) (the burden falls on the government to change the present
15 state of affairs and it therefore must demonstrate changed circumstances).

16
17 **COUNT THREE**

18 **(Violation of Revocation Regulation, 8 C.F.R. § 241.4(l)**
19 **and Due Process)**

20
21 44. Petitioner incorporates the allegations in the paragraphs above as though
22 fully set forth here.

23 45. An agency's failure to follow its regulations that are meant to protect
24 fundamental rights is a violation of due process. Accardi v. Shaughnessy, 347 U.S.
25 260, 267, 74 S.Ct. 499, 98 L.Ed. 681 (1954); Sameena Inc. v. U.S. Air Force, 147
26 F.3d 1148, 1153 (9th Cir. 1998).

27 46. The regulation at 8 C.F.R. § 241.4(l) authorizes the revocation of release
28 only where there has been a violation of the conditions of release or there has been

1 a determination by the Executive Associate Commissioner that “i) The purposes of
2 release have been served; (ii) The alien violates any condition of release; (iii) It is
3 appropriate to enforce a removal order or to commence removal proceedings
4 against an alien; or (iv) The conduct of the alien, or any other circumstance,
5 indicates that release would no longer be appropriate.”

6 47. The regulation at 8 C.F.R. § 241.4(l) is designed to protect the
7 fundamental interest of liberty, and the failure to follow the regulation is a violation
8 of due process.

9 48. None of the circumstances under 8 C.F.R. § 241.4(l) have been met, in
10 violation of Due Process.

11 49. If such determinations have been met, Petitioner has not been notified of
12 such determinations in violation of due process.

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14 **PRAYER FOR RELIEF**

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

- 16 (1) Assume jurisdiction over this matter;
17 (2) Declare that Petitioner’s detention is unlawful;
18 (3) Order that Petitioner be released immediately from detention
19 and returned to the terms of her original order of supervision;
20 (4) Award reasonable costs and attorneys’ fees; and
21 (5) Grant such further relief as the Court deems just and proper.
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Dated: January 7, 2026

Respectfully submitted,

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