

The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDINAJIB ALI,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:26-cv-00073-MLP

FEDERAL RESPONDENTS'¹
RETURN

Noted for Consideration:
January 27, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement (ICE) has lawfully detained Petitioner Abdinajib Ali, a native and citizen of Ethiopia who is subject to a final removal order, to facilitate his removal to Ethiopia or Somalia. Petitioner's detention is lawful. He is a noncitizen subject to an administratively final order of removal, and he is lawfully detained under Section 241 of the Immigration and Nationality Act (INA). *See* 8 U.S.C. § 1231. Petitioner's habeas petition should be denied because his detention is not indefinite or unconstitutionally prolonged under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Although ICE has not yet obtained a travel document, ICE is

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 pursuing a travel document from Ethiopia. Petitioner originally refused to cooperate in ICE's
2 efforts to obtain a travel document from Ethiopia, but it now appears that he is cooperating.
3 Petitioner has not submitted any evidence to show that Ethiopia will not issue a travel document
4 under these circumstances. Thus, it is likely that Ethiopia will issue a travel document and
5 Petitioner's removal is likely in the reasonably foreseeable future. Accordingly, this Court should
6 deny Petitioner's habeas petition without an evidentiary hearing.

7 **II. FACTUAL AND PROCEDURAL BACKGROUND**

8 **A. Detention Authorities and Removal Procedures**

9 The INA governs the detention and release of noncitizens during and following their
10 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general
11 detention periods are generally referred to as "pre-order" (meaning before the entry of a final order
12 of removal) and, relevant here, "post-order" (meaning after the entry of a final order of removal).
13 *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order
14 detention).

15 When a final order of removal has been entered, a noncitizen enters a 90-day "removal
16 period." 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
17 "shall remove the [noncitizen] from the United States." *Id.* To ensure a noncitizen's presence for
18 removal and to protect the community from noncitizens who may present a danger, Congress has
19 mandated detention while removal is being effectuated. 8 U.S.C. § 1231(a)(2).

20 Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration
21 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
22 and does not place any temporal limit on the length of detention under that provision:

23 //

1 [A noncitizen] ordered removed who is inadmissible under section 1182,
2 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
3 who has been determined by the [the Secretary of Homeland Security] to be a risk
4 to the community or unlikely to comply with the order of removal, *may* be detained
5 *beyond the removal period* and, if released, shall be subject to the terms of
6 supervision in paragraph (3).

7 8 U.S.C. § 1231(a)(6) (emphasis added).

8 During the removal period, ICE² is charged with attempting to effect removal of a
9 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
10 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be
11 detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal from
12 the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
13 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701.

14 Here, Petitioner has been detained since January 22, 2025, and is the subject of an
15 administratively final order of removal issued on June 23, 2025. *See* Declaration of Kristin B.
16 Johnson (Johnson Decl.) Exs. D, H. Thus, the “presumptively reasonable” six-month custody
17 period just recently expired on or about December 23, 2025. *Zadvydas*, 533 U.S. at 701. ICE is in
18 the process of effectuating Petitioner’s removal to Ethiopia. ICE’s efforts, however, were hindered
19 by Petitioner’s initial refusal to cooperate in efforts to obtain a travel document. *See* Johnson Decl.
20 Exs. I-J (refused to sign travel document requests and documentation). However, ICE was able to
21 submit a signed request for a travel document to the Ethiopian government on October 5, 2025.
22 *See* Johnson Decl. Exs. I-J. It has been less than four months since the completed travel document
23 request was sent. Petitioner has presented no evidence that Ethiopia will not grant ICE’s request

24 ² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 for a travel document. Therefore, Petitioner's removal is likely in the reasonably foreseeable
 2 future.

3 **B. Petitioner Abdinajib Ali**

4 Petitioner is a native and citizen of Ethiopia; he was born in Ethiopia and has citizenship
 5 in both Ethiopia and Somalia. *See* Johnson Decl. Ex. A; Declaration of Deportation Officer Joseph
 6 Carnevale³ (Carnevale Decl.) ¶ 4. Petitioner came to the United States as a refugee on January 8,
 7 2015. *See* Johnson Decl. Ex. A; Carnevale Decl. ¶ 5. Shortly thereafter, he applied for lawful
 8 permanent resident status. *See* Johnson Decl. Ex. A. Petitioner's application was granted on
 9 November 29, 2016. *See* Johnson Decl. Ex. A.

10 Following his adjustment of status to that of lawful permanent resident, Petitioner amassed
 11 and extensive criminal record in the United States. *See* Johnson Decl. Exs. B, E, G; Carnevale
 12 Decl. ¶ 6.

- 13 • On January 24, 2018, Petitioner was arrested for Vehicle Theft and Robbery; he was
 14 convicted of both offenses on May 8, 2018.
- 15 • On March 22, 2020, Petitioner was arrested for Driving Under the Influence of Liquor;
 16 he was convicted of the offense on December 19, 2022.
- 17 • On August 12, 2020, Petitioner was arrested for Possession of Narcotic Equipment; he
 18 was convicted of the offense on October 7, 2022 and/or October 24, 2022.
- 19 • On July 12, 2022, Petitioner was arrested for Disorderly Conduct; he was convicted of
 20 the offense on July 12, 2022.
- 21 • On September 5, 2022, Petitioner was arrested for Possession of Narcotic Equipment;
 22 he was convicted of the offense on October 7, 2024 and/or October 24, 2022.⁴

23 ³ The information contained in this Declaration has been verified by ICE, but due to a network outage, ICE is unable
 24 to provide the signed Declaration of Deportation Officer Joseph Carnevale in time for this filing. The signed
 Declaration will be filed upon receipt from ICE.

⁴ Both NTAs show two arrests for Possession of Drug Paraphernalia; one on August 12, 2020, and one on September 5,
 2022, with convictions for both on October 24, 2022. *See* Johnson Decl. Exs. B, G. The I-213 shows the same two
 arrests, with a conviction for both on October 7, 2024. *See* Johnson Decl. Ex. E.

- On September 16, 2022, Petitioner was arrested for Assault; he was convicted of the offense on September 16, 2022.
- On September 21, 2023, Petitioner was arrested for Trespassing; he was convicted of the offense on September 21, 2023.

See Johnson Decl. Exs. B, E, G; Carnevale Decl. ¶ 6.

Petitioner came to the attention of immigration officials while he was serving a prison sentence in the Arizona Department of Corrections (AZ DOC). *See Johnson Decl. Ex. E; Carnevale Decl. ¶ 7.* ICE issued an immigration detainer on October 10, 2024. *See Johnson Decl. Ex. C; Carnevale Decl. ¶ 7.* ICE also issued a Notice to Appear (NTA) charging Petitioner with being removable from the United States pursuant to Section 237(a)(2)(B)(i) of the INA in that, after admission, he was convicted of a law or regulation relating to a controlled substance, other than a single offense involving possession for one's own use of 30 grams or less of marijuana. *See Johnson Decl. Ex. B.*

Petitioner was released to ICE custody from the AZ DOC on January 22, 2025. *See Johnson Decl. Ex. D; Carnevale Decl. ¶ 8.* ICE reissued an NTA on January 27, 2025, again charging Petitioner with being removable from the United States pursuant to Section 237(a)(2)(B)(i) of the INA for being convicted of a controlled substance offense. *See Johnson Decl. Ex. G; Carnevale Decl. ¶ 9.* ICE determined that Petitioner should remain in custody during his removal proceedings. *See Johnson Decl. Ex. F.*

On March 14, 2025, Petitioner filed an application for Asylum, Withholding of Removal, and Convention against Torture and claimed that he was a national of Somalia and citizen of Ethiopia. *See Carnevale Decl. ¶ 10.*

On June 23, 2025, an Immigration Judge issued an Order denying all forms of relief and directing that Petitioner be removed to Somalia, or in the alternative Ethiopia. *See Johnson Decl. Ex. H; Carnevale Decl. ¶ 13.* Both Petitioner and the government waived appeal making the removal

1 order a final order of removal. 8 C.F.R. § 1241.1 (an order of removal becomes final upon waiver
2 of appeal by the respondent). *See* Johnson Decl. Ex. H; Carnvale Decl. ¶ 13.

3 Following entry of the removal order, ICE began efforts to obtain a travel document for
4 Petitioner's removal. *See* Johnson Decl. Exs. I-J; Carnvale Decl. ¶¶ 14-15. ICE initially requested
5 a travel document from Somalia pursuant to the removal order. *See* Carnvale Decl. ¶ 14. On
6 July 16, 2025, a travel document request was sent to Headquarters Removal and International
7 Operations (HQ-RIO). *See* Carnvale Decl. ¶ 14. On July 24, 2025, the travel document request
8 package was delivered to the Somali embassy. *See* Carnvale Decl. ¶ 15. The same day, the Somali
9 embassy rejected the request due to lack of supporting information for Somali citizenship and the
10 presence of supporting information for Ethiopian citizenship. *See* Carnvale Decl. ¶ 15.

11 ICE then sought to obtain a travel document from Ethiopia, the alternative country in the
12 removal order. On August 1, 2025, local ERO contacted HQ-RIO requesting information needed
13 for obtaining a travel document package for Ethiopia. *See* Carnvale Decl. ¶ 16.

14 Petitioner, however, refused to cooperate in ICE's efforts to obtain a travel document and
15 refused to sign or complete the necessary documentation to submit to the Ethiopian government.
16 *See* Johnson Decl. Exs. I-J. On October 5, 2025, Petitioner refused to sign the travel document
17 application for Ethiopia. *See* Carnvale Decl. ¶ 17. The travel document package was sent to HQ-
18 RIO the same day. *See* Carnvale Decl. ¶ 17.

19 On December 10, 2025, Petitioner informed local ERO that he now wished to cooperate
20 with getting travel documents for Ethiopia. *See* Carnvale Decl. ¶ 18. ICE was eventually able to
21 obtain completed documentation from Petitioner and submit a request for a travel document to the
22 Ministry of Foreign Affairs of the Federal Democratic Republic of Ethiopia on October 5, 2025.
23 *See* Johnson Decl. Ex. J.

III. LEGAL STANDARD

It is axiomatic that “[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n.20 (2020). Title 28 U.S.C. § 2241 provides district courts the authority to grant habeas relief “within their respective jurisdictions.” To warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

IV. ARGUMENT

A. **Petitioner’s detention is not indefinite or unconstitutionally prolonged.**

Petitioner has not demonstrated that his detention has become “indefinite” or unconstitutional. In *Zadvydas*, the Supreme Court analyzed whether the potentially open-ended duration of detention pursuant to 8 U.S.C. § 1231(a)(6) is constitutional. The Court read an implicit limitation of post-removal detention “to a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. It was further specified that Section 1231(a)(6) does not permit indefinite detention. *Id.* Thus, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

The *Zadvydas* Court recognized that as the length of detention grows, a sliding scale of burdens is applied to assess the continuing lawfulness of a noncitizen’s post-order detention. *Id.* (stating that “for detention to remain reasonable, as the period of post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”). However, the Supreme Court determined that it is “presumptively reasonable” for the Government to detain

1 a noncitizen for six months following entry of a final removal order, while it worked to remove
2 the noncitizen from the United States. *Id.* at 701. Thus, the Supreme Court implicitly recognized
3 that six months is the *earliest* point at which a noncitizen's detention could raise constitutional
4 issues. *Id.* Moreover, the Supreme Court noted the six-month presumption "does not mean that
5 every [noncitizen] not removed must be released after six months. To the contrary, [a noncitizen]
6 may be held in confinement until it has been determined that there is no significant likelihood of
7 removal in the reasonably foreseeable future." *Id.*

8 Here, Petitioner has been detained for seven months following entry of the final order of
9 removal on June 23, 2025 – just one month beyond the presumptively reasonable six-month period
10 under *Zadvydas*. See Johnson Decl. Ex. H. Petitioner initially refused to cooperate with ICE's
11 efforts to obtain travel documents from Ethiopia. On July 10, 2025, documents were prepared to
12 seek a travel document from Ethiopia, but Petitioner refused to sign them. See Johnson Decl. Ex. I;
13 Carnevale Decl. ¶ 17.

14 Pursuant to INA § 241(a)(1)(C), "the removal period shall be extended ... and the alien may
15 remain in detention during such extended period if the alien fails or refuses to make timely
16 application in good faith for travel or other documents necessary to the alien's departure or
17 conspires or acts to prevent the alien's removal subject to an order of removal." 8 U.S.C.
18 § 1231(a)(1)(C). The Ninth Circuit has interpreted Section 241(a)(1)(C) as authorizing continued
19 detention of a removable alien "so long as the alien fails to cooperate fully and honestly with
20 officials to obtain travel documents." *Lema v. I.N.S.*, 341 F.3d 853, 857 (9th Cir. 2003) (emphasis
21 added); see also *Pelich v. I.N.S.*, 329 F.3d 1057, 1060 (9th Cir. 2003) (holding that *Zadvydas* does
22 not apply where an alien holds the "'keys [to his freedom] in his pocket' and could likely effectuate
23 his removal by providing the information requested by the INS."). The removal period "shall be
24 extended until the alien demonstrates to the Service that he or she has complied with the statutory

1 obligations. Once the alien has complied with his or her obligations under the law, the Service
2 shall have a reasonable period of time in order to effectuate the alien's removal." 8 C.F.R.
3 § 241.4(g)(1)(ii).

4 Petitioner did not decide to cooperate with ICE's efforts to obtain a travel document until
5 December 10, 2025, when he signed the required documentation. *See* Johnson Decl. Exs. I-J;
6 Carnevale Decl. ¶ 18. There is good reason to believe that there is a significant likelihood of
7 removal in the reasonably foreseeable future. The completed and signed request for a travel
8 document and the necessary documentation was submitted to the Ministry of Foreign Affairs of
9 the Federal Democratic Republic of Ethiopia on October 5, 2025. *See* Johnson Decl. Exs. I-J.
10 Ethiopia issues travel documents routinely. *See* Carnevale Decl. ¶ 19. And ICE believes that there
11 is a significant likelihood of removal in the reasonable foreseeable future to Ethiopia. *See*
12 Carnevale Decl. ¶ 19.

13 It has been less than four months since the completed request was submitted. Petitioner has
14 not submitted any evidence that Ethiopia will not issue a travel document under these
15 circumstances. Thus, Petitioner's removal is likely in the reasonably foreseeable future and is not
16 yet indefinite or unconstitutionally prolonged under *Zadvydas*.

17 The fact that Petitioner does not yet have a specific date of anticipated removal does not
18 make his detention indefinite. *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008). Detention
19 becomes indefinite in situations where the country of removal refuses to accept the noncitizen or
20 if removal is legally barred. *Id.* There is no reason to believe that is the situation here.
21 Consequently, Petitioner has failed to demonstrate a good reason to believe that there is no
22 significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at
23 701.

1 With his removal pending, the government has significant legitimate interests in
2 Petitioner's continued detention to ensure he will appear for removal. Petitioner poses a risk of
3 flight because he alleges no avenue to seek relief from removal and a danger to the community
4 given his extensive criminal history. Moreover, his detention has not become "indefinite," and his
5 removal is significantly likely in the reasonably foreseeable future. This Court should deny
6 Petitioner's request for immediate release.

7 **B. Petitioner's third country removal challenge should be denied.**

8 Petitioner's habeas petition includes a stock/form argument alleging that the government's
9 removal of noncitizens to third countries violates the law. Dkt. 1, pgs. 12-19. But the government
10 is not pursuing third country removal in Petitioner's case. *See Carnevale Decl.* ¶ 21. ICE is
11 pursuing a travel document from Ethiopia, which is the alternative country listed in the
12 Immigration Judge's removal order, and a country for which Petitioner has citizenship. *See*
13 *Johnson Decl. Exs. H-J; Carnevale Decl.* ¶ 20. Petitioner's third country removal arguments simply
14 do not apply here.

15 Petitioner's request for permanent injunctive relief enjoining ICE from removing him to a
16 third country should be denied. *See Flores Torres v. Hermosillo*, Case No. 2:25-cv-02687-LK,
17 (W.D. Wash. Jan 20, 2026), Dk. 10 (Order Granting in Part and Denying in Part Petition for Writ
18 of Habeas Corpus). "In seeking a permanent injunction, the moving party must convince the court
19 that relief is needed: 'The necessary determination is that there exists some cognizable danger of
20 recurrent violation, something more than the mere possibility which serves to keep the case alive.'"
21 *Id.* at pg. 15 (quoting *Cummings v. Connell*, 316 F.3d 886, 897 (9th Cir. 2003) (quoting *United*
22 *States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953))).

23 Without argument or evidence that unlawful third country removal is likely to occur,
24 Petitioner's request constitutes nothing more than a "mere possibility" that does not entitle him to

1 relief. *Id.* (citing *Cummings*, 316 F.3d at 897; *Indep. Towers of Wash. v. Washington*, 350 F.3d
2 925, 929 (9th Cir. 2003) (“Our adversarial system relies on the advocates to inform the discussion
3 and raise the issues to the court.”)).

4 For this reason, Petitioner’s request for injunctive relief preventing his third country
5 removal should be denied.

6 **C. Petitioner’s re-detention challenge should be denied.**

7 Petitioner again includes a stock/form argument alleging that the government’s re-
8 detention of noncitizens without notice and an opportunity to be heard violates the law. Dkt. 1,
9 pgs. 7-12. But Petitioner was not re-detained. Petitioner was released to ICE custody from the AZ
10 DOC on January 22, 2025. *See Johnson Decl. Ex. D.* He has remained in ICE custody during his
11 removal proceedings and following entry of his final order of removal. *See Johnson Decl. Ex. F.*
12 Petitioner was never released on parole or an Order of Supervision and re-detained. Third country
13 removal arguments simply do not apply here.

14 For the same reasons Petitioner’s request for permanent injunctive relief enjoining third
15 country removal should be denied, Petitioner’s request for permanent injunctive relief enjoining
16 ICE from re-detaining him should be denied. *See Flores Torres*, Case No. 2:25-cv-02687-LK,
17 Dkt. 10, pgs. 15-16. Like *Flores Torres*, nowhere in Petitioner’s habeas petition does he allege that
18 his re-detention is likely, or that such re-detention is likely to occur without proper notice and an
19 opportunity to be heard. Dkt. 1. For this reason, Petitioner’s request for injunctive relief preventing
20 his re-detention should be denied.

21 **V. CONCLUSION**

22 For the foregoing reasons, Petitioner’s habeas petition should be denied and dismissed
23 without an evidentiary hearing.

1 DATED this 22nd day of January, 2026.

2 Respectfully submitted,

3 CHARLES NEIL FLOYD
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5 s/ Kristin B. Johnson

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15 I certify that this memorandum contains 3,285 words,
16 in compliance with the Local Civil Rules.