

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
AT KANSAS CITY

KAVEH ABEDI,
Petitioner,

v.

CRYSTAL CARTER, as Warden US Penitentiary
in Leavenworth; KRISTI NOEM, Secretary,
U.S. Department of Homeland Security;
CHRISTOPHER CHAMBERLIN Acting Assistant
Field Office Director for the Kansas City
Field Office and
US Department of Homeland Security
Respondents.

Case No. 26-3012-JWL

VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO
28 USC § 2241

INTRODUCTION

1. Kavah Abedi (“Petitioner” or “Mr. Abedi” or “Kaveh”) has been incarcerated since June 23, 2025, for over 6 months. Petitioner’s detention became presumptively unconstitutional after six months. *Zadvydas v. Davis*, 533 U.S. 678 (2001). 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. On January 7, 2025, ICE conducted a review of Petitioner’s custody since he has been detained for over 180 days. According to Immigration Officer Mann, it is recommended that the Petitioner be released from custody. This is because Petitioner is not a danger to the community, he is not a flight risk, and his removal is not reasonably foreseeable. **(See attached Exhibit A)**. The recommendation has been forwarded to ICE Headquarters, but it is uncertain when the recommendation will be reviewed, and there is no timetable available. Under these circumstances, Petitioner’s release, which easily meets the threshold under the Supreme Court’s ruling in *Zadvydas v. Davis*, 533 U.S. 678 (2001) is

appropriate. Absent an order from this Court, Petitioner will likely remain detained indefinitely since there is no timeline known for HQ review.

3. Petitioner asks this Court to find that his indefinite detention is now unreasonable and to order his immediate release.

**REQUIREMENTS OF 28 U.S.C. § 2243 AND
APPLICATION FOR AN ORDER TO SHOW CAUSE**

4. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

5. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

6. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to all Respondents requiring them to show cause why the Petitioner’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 1331; and Article I, § 9, cl. 2 of the United States Constitution should not be granted and why Respondents should not be ordered to release Petitioner from detention.

PARTIES

7. Petitioner, Kaveh Abedi, is a resident of Great Bend, Kansas. Until recently, he and his United States Citizen wife of almost 10 years lived in San Diego, California. He is currently being detained under the direction of Respondents in Leavenworth, Kansas, some 254 miles from his home and family.

8. Respondent Crystal Carter is the Warden of the US Penitentiary in Leavenworth and has ultimate authority over the facility where Mr. Abedi is detained. She is Mr. Abedi's immediate custodian responsible for his physical custody. Respondent Carter's address is 100 Hwy Terrace, Leavenworth, KS 66048

9. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in Kansas, and Missouri and supervises Respondent Chamberlin; who is legally responsible for pursuing Petitioner's detention and removal; and as such is the legal custodian of Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

10. Respondent Christopher Chamberlin is named in his official capacity as the Acting Assistant Field Office Director for the Kansas City Field Office for ICE within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations within the Kansas City region and is the legal custodian of Petitioner. Respondent Chamberlin's address is Department of Homeland Security, Enforcement and Removal Office, 555 N. Woodlawn Street, Bld. 4, Ste. 160 Wichita, KS 67208.

11. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for enforcing Petitioner's continued detention pending his removal proceedings. DHS's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

JURISDICTION

12. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution. Petitioner's current detention as enforced by Respondents constitutes a "severe restraint[] on [Petitioner's] individual liberty," such that Petitioner is "in custody in violation of the . . . laws . . . of the United States." See *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3).

13. 28 U.S.C. § 2244(a), indicates:

"No circuit or district judge shall be required to entertain an application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court of the United States *if it appears that the legality of such detention has been determined* by a judge or court of the United States *on a prior application* for a writ of habeas corpus, except as provided in section 2255.

Harper v. Warden, FCC Coleman II, No. 5:24-cv-109-WFJ-PRL, 2025 LX 46352, at *2-3 (M.D. Fla. May 7, 2025) (emphasis added).

14. "Long before AEDPA, and even before the enactment of § 2244, the Supreme Court developed several principles limiting the review of second or subsequent habeas petitions. See *McCleskey v. Zant*, 499 U.S. 467, 479-88, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991). A federal court may decline a successive habeas action if the petition "presents a claim that was previously raised and adjudicated in an earlier habeas proceeding, unless the court determined that hearing the claim would serve the ends of justice." *Id.* at 480-82. In addition, under the abuse of the writ doctrine, a court may also decline to consider a successive habeas petition "that could have been presented in an earlier petition but was not." *Id.* at 482-89. The abuse of the writ doctrine is recognized by the Tenth Circuit *Stanko*

v. Davis, 617 F.3d 1262, 1270 (10th Cir. 2010)(citing *George v. Perrill*, 62 F.3d 333, 335 (10th Cir. 1995)).

15. "[I]f the petitioner had no fair opportunity to raise the claim in the prior application, a subsequent application raising that claim is not 'second or successive,' and [AEDPA's] bar does not apply." *Harper v. Warden, FCC Coleman II*, No. 5:24-cv-109-WFJ-PRL, 2025 LX 46352, at *4 (M.D. Fla. May 7, 2025)

16. The Petition for Writ of Habeas in this matter raises a claim that could not have been raised in the first petition. This is because the presumptively reasonable 180-day detention period under *Zadvydas*, as calculated by this Court, had not passed. In addition, and importantly, ICE itself now recommends release; a recommendation which comes after a review of the relevant factors. They have determined that the Petitioner is not a flight risk, not a danger to the community, and removal is not reasonably foreseeable. These are all changed circumstances that could not have been raised in the first habeas petition. Further, given that the Constitution leans in favor of liberty, the court's review of the Petitioner's habeas claims serves the ends of justice. Thus, this court has jurisdiction to consider and grant this Petition. Moreover, because the current Petition is factually in a dissimilar posture, the appeal at the Court of Appeals is unimpacted by this habeas and vice versa.

17. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). The REAL ID Act of 2005, which eliminated habeas corpus jurisdiction over final orders of removal, deportation, and exclusion and consolidated such review in the court of appeals, did not impact the ongoing availability of

habeas corpus filed in the district court to challenge the length or conditions of immigration detention. *See* H.R. REP. No. 109-72, at 175 (2005), (“Moreover, section 106 would not preclude habeas review over challenges to detention that are independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.”) *reprinted in* 2005 U.S.C.C.A.N. 240, 300; *see Hernandez v. Gonzales*, 424 F.3d 42, 42-43 (1st Cir. 2005); *Sissoko v. Rocha*, 412 F.3d 1021, 1033 (9th Cir. 2005); *Kellici v. Gonzales*, 472 F.3d 416 (6th Cir. 2006).

VENUE

18. The District of Kansas is the proper venue to resolve Petitioner’s petition for a Writ of Habeas Corpus. Petitioner is physically present within the District of Kansas since he is housed at the US Penitentiary in Leavenworth, Kansas.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

19. Petitioner has no administrative remedies regarding his custody determination to exhaust. The only administrative process available to Petitioner that may apply is a Post Order Custody Review (“POCR”), which Respondents have conducted on January 7, 2026. Enforcement and Removal Officer Mann confirmed that there are no travel documents and that removal is not imminent, and that ICE Officers who conducted the interview recommend release. Despite this, Petitioner remains detained. No other exhaustion requirement exists under these circumstances.

20. Moreover, even if there were administrative redress that the petitioner could seek, the Petitioner need not exhaust his administrative remedies. The detention statute pursuant to which Petitioner is detained, 8 U.S.C. § 1231(a), has no exhaustion requirement. Exhaustion is required only when Congress specifically mandates it. *McCarthy*

v. Madigan, 503 U.S. 140, 144 (1992). In all other instances, “sound judicial discretion governs.” *Id.*

21. This Court also should not require Petitioner to exhaust his administrative remedies. First, the Supreme Court has recognized that courts should not require exhaustion where there is an unreasonable or indefinite time-frame for administrative action. Exhaustion is thus not appropriate where plaintiff “may suffer irreparable harm if unable to secure immediate judicial consideration of his claim.” *Id.* at 147. Petitioner has a constitutionally protected liberty interest in his freedom from government custody. *Zadvydas*, 533 U.S. at 690. Petitioner’s unlawful indefinite detention constitutes irreparable harm. *See Seretse- Khama v. Ashcroft*, 215 F. Supp.2d 37, 53 (D.D.C. 2002); *Hardy v. Fischer*, 701 F.Supp. 2d 614, 619 (S.D.N.Y. 2010) (threat of unlawful detention and reimprisonment would constitute quintessential irreparable harm).

STATEMENT OF FACTS REGARDING CURRENT DETENTION

22. On June 23, 2025, while Petitioner was in his yard at home, ICE Officers arrested him despite his being on a valid order of supervision. **(See attached Exhibit B).**

23. This detention came after Petitioner was placed on an Order of Supervision (OSUP) by ICE on December 19, 2002; over two decades earlier.

24. Petitioner complied with all requirements of his OSUP release and had never violated the conditions of his release in any way.

25. Petitioner has remained in custody since his detention in June 2025. It has been some 6 months and 24 days.

26. While Petitioner filed a Writ of Habeas Corpus, on July 21, 2025, it was denied on October 6, 2025. *Abedi v. Carter*, 5:25-cv-03141-JWL (Doc. 11). That matter remains

pending at the Court of Appeals for the Tenth Circuit. *Abedi v. Carter, et al*, 25-3179 (10th Cir.). While the Court denied the initial Habeas Petition, the Court also provided that “if petitioner’s continued detention without removal continues beyond the six-month period and becomes unreasonably indefinite, and he can satisfy the applicable standard under *Zadvydas*, petitioner is free to file a new habeas petition seeking his release.” *Id.* at FN 2

27. Petitioner has now been detained over the presumptively reasonable six-month period, and his detention has become unreasonably indefinite, especially since removal is not reasonably foreseeable.

LEGAL FRAMEWORK

28. 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. 28 U.S.C. § 2243.

29. “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).

30. 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.

31. 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.”

32. The Supreme Court held in *Zadvydas* that “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.

33. 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. 533 U.S. at 701. (“We do have reason to believe, however, that Congress previously doubted the constitutionality of detention for more than six months”). 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.* (emphasis added).

34. Furthermore, in *Zadvydas*, the Court specifically rejected the idea of continued detention where the government claimed that “good faith efforts to effectuate ...

deportation continue" or that a noncitizen would have to prove that "deportation will prove 'impossible'". *Id.* at 702. As the Court pointed out, "this standard would seem to require an alien seeking release to show the absence of *any* prospect of removal-no matter how unlikely or unforeseeable-which demands more than our reading of the statute can bear." *Id.* (emphasis in the original).

35. 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.

36. In the instant case, ICE itself reviewed factors such as Petitioner's disciplinary record, criminal record, mental health reports, evidence of rehabilitation, history of flight, prior immigration history, and favorable factors such as family ties. INA § 241.4(f).

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

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

38. 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.

39. Petitioner has been detained by Respondents for over six months.

40. After a review of the pertinent factors, ICE has determined that he is neither a flight risk or a danger to the community. In addition, given his limited and stale criminal history, he is not likely to commit any new criminal offenses. Petitioner's only criminal history has been recommended for a gubernatorial pardon based on a lack of meaningful criminal history. Indeed, he has vast family and community support, and ICE has had adequate time to consider all these factors.

41. Petitioner's prior release, which lasted for over two decades, did not result in any violations of his order of supervision, and ICE has raised no concerns that Petitioner would now violate any conditions placed on him.

42. Petitioner's prolonged detention is not likely to end in the reasonably foreseeable future since, despite the recommendation of release, it is unclear when a review of that recommendation will occur, but ICE, itself believes it could be months if not longer. 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.

43. 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)

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

45. 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.”).

46. Since ICE itself has now determined that removal is not reasonably foreseeable, Petitioner’s detention does not effectuate the purpose of the statute, and is accordingly not authorized by § 1231(a).

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 this 16th day of January, 2026.

Sharma-Crawford Attorneys at Law

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VERIFICATION

I declare under a penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

s/Rekha Sharma-Crawford
Rekha Sharma-Crawford

January 16, 2026