

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

Mohamed Nader Alsheref
Petitioner,

v.

Cause No. _____

Kristi Noem
Secretary, U.S. Department of
Homeland Security

Todd Lyons, Acting Director, U.S.
Immigration and Customs
Enforcement (ICE)

Marcos Charles, Acting Executive
Associate Director, ICE and Removal
Operations

Fred Figuera, Warden, Diamondback
Correctional Facility

Pamela Bondi, U.S. Attorney General

Respondents.

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

1. Petitioner Mohamed Alsheref ([REDACTED]), through counsel, seeks a writ of habeas corpus under 28 U.S.C. § 2241, challenging the legality of his continued detention by Immigration and Customs Enforcement (“ICE”). Petitioner is a stateless national of Palestine who has resided in the United States since 2000. His removal proceeding concluded with the issuing of an administrative order of removal in April of 2008 and Respondents have been unable to effectuate the removal since that date. Petitioner has been in custody, constructive or physical, since his final order of removal. Petitioner began reporting on an Order of Supervision “OSUP” in August of 2006. In July of 2025, Petitioner’s manner of custody was arbitrarily changed from constructive to physical. Accordingly, the Petitioner is left with no recourse but to file this a writ of habeas corpus and seek his release from physical custody.

PARTIES

1. Petitioner, Mohamed Nadar Alsheref, is a non-citizen stateless national of Palestine who is currently detained by ICE at the Diamondhead Correctional Facility in Watonga, Oklahoma. (*Ex. 1 ICE Detainee Locator*)
2. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary

responsible for all immigration enforcement in the United States. She is sued in her official capacity only.

3. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States. He is sued in his official capacity only.
4. Respondent Marcos Charles is the Acting Executive Associate Director of ICE Enforcement and Removal Operations. He is the head of the ICE office that carries out arrests of noncitizens and removals from the United States. He is sued in his official capacity only.
5. Fred Figueroa, is the Warden of the Diamondhead Correctional Facility. He is the head of the facility that currently maintains physical custody of the Petitioner. He is sued in his official capacity only.
6. Defendant Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees. She is sued in her official capacity only.

JURISDICTION

7. This Court has jurisdiction to hear this case under *28 U.S.C. § 2241* and *28 U.S.C. § 1331*, Federal Question Jurisdiction, as Petitioner is presently in custody under color of authority of the United States and

such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to *28 U.S.C. § 2241*, and the *All Writs Act*, *28 U.S.C. § 1651*.

CUSTODY

8. Petitioner is under the Physical custody of the Respondents and is currently detained at the Diamondhead Correctional Facility in Watonga, Oklahoma. Petitioner was previously reporting to ICE on an “Order of Supervision” in constructive custody since 2008 with restrictions on travel and subject to a final order of removal since April of 2008.

VENUE

9. Venue is proper in this court, pursuant to *28 USC §1391(e)*, in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where the Petitioner is detained.


REQUIREMENTS SET FOR IN 28 U.S.C 2243

10. 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*. If an order to show cause is issued, the Court must require respondents to file a return

“within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

11. 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).

FACTS

12. The Petitioner is a stateless national was born on , in Tripoli, Libya¹ to Palestinian parents. (*Ex 2 Libyan Birth Certificate with Translation*). Petitioner’s family resided in Libya as refugees who lacked formal authorization to reside in the country. While Petitioner was born in Libya, he did not attain citizenship.²

13. In the late 1980s and throughout the 1990s the Libyan Government began expelling Palestinian refugees and the Petitioner’s family moved to Egypt and resided there as refugees.

14. Petitioner last entered the United States in 2000 on a student visa. The visa was issued on an Egyptian travel document. It is important to note

¹ Birth in Libya does not confer automatic citizenship. Libyan nationality is based primarily on jus sanguinis (citizenship by descent), not jus soli (citizenship by birthplace). Neither of Petitioner’s parents are of Libyan descent. *See Libya Law 18 1980*

the I-94 listed Petitioner's nationality as Palestinian not Libyan, Israeli or Egyptian (*Ex 3 I-94 and Travel Document*)

15. On January 27, 2006, Petitioner plead guilty to violations of 21 USC 846, 841(a)(1) and 841(b)(1)(B) for Conspiracy to Possess with Intent to Distribute Marijuana in which he was sentenced to 32 months confinement. (*Ex 4 Criminal Conviction*)

16. Following his release the Petitioner was detained and issued an administrative order of removal.³ (*Ex 5 Administrative Order of Removal*) Petitioner was denied the ability to defend himself in removal proceedings and was summary ordered removed to Libya, a country he was neither a national nor citizen of.

17. Respondents attempted for months to obtain a travel document from the consulates of Egypt, Libya, Israel, Palestine and Jordan however their efforts were unsuccessful. (*Ex. 6-9 Letters to Consulates- Egypt, Israel, Jordan, Libya*) It was then determined after a custody review that removal was not possible in the foreseeable future by the Respondents. (*Ex. 10 Custody Review 2008*)

18. On August 6, 2008, the Petitioner was issued form I-220b Order of Supervision "OSUP" by DHS and was required to regularly report. (*Ex*

³ Under 8 U.S.C. § 1228 (INA § 238), U.S. immigration law authorizes an administrative removal procedure for certain non-citizens convicted of an aggravated felony. This means an immigration officer (not an Immigration Judge) can issue a Final Administrative Removal Order without a hearing before an Immigration Judge.

11 OSUP).

19. After August of 2008 the Petitioner regularly reported to all OSUP appointments and complied with all requests of him by the Respondents. Petitioner was in full compliance of his obligations on release for nearly twenty-years the Petitioner. (*Id.*)

20. Since his release the Petitioner has married a United States Citizen and has a family of 5 US citizen children, one of whom has a developmental disorder. The Petitioner also built a small but successful automotive business in which he supports his family.

21. On June 19, 2025, the Petitioner was taken into custody by the Respondents. No reason was provided for his re-detention or change of circumstances. No informal interview was provided nor travel document was procured prior to re-detention.

22. The Petitioner had not violated the conditions of his OSUP or been arrested or charged with any violation of state, federal or immigration law. No travel document has been procured in the nearly six months of detention by the Respondents.

23. While in custody the Petitioner has attempted to apply for travel documents from Tunisia, Morocco, Libya, Palestine, Israel, Jordan and Egypt however all attempts have been in vain.⁴ Petitioner now is held in

⁴ On September 22, 2025, Petitioner filed a writ of habeas corpus in the Northern District of Texas. This writ

indefinite custody with any possibility of removal in doubt.

CAUSE OF ACTION I

Due Process U.S. Constitution, 5th Amendment

24. Petitioner incorporates by reference paragraphs 1 – 23.

25. The Fifth Amendment guarantees liberty and requires that immigration detention be reasonably related to a legitimate governmental purpose. Petitioner's detention, considering his faithful reporting on OSUP and absent imminent removal is unlawful.

26. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law. The Petitioner's continued physical detention is in violation of the fifth amendment.

27. Detention is not a requirement of deportation. To the contrary, detention is a deprivation of liberty that carries with it serious consequences independent of any decision to deport. The Petitioner's current detention serves only to take away the liberty of a non-citizen, separating him from his family and community and jeopardizing his ability to pursue pending legal avenues for relief. Because "[f]reedom from imprisonment . . . lies at the heart of the liberty [the Due Process] Clause protects," *Zadvydas v.*

was denied on December 3, 2025. In summary the decision cited lack of evidence as technical violations of due process. (*See Alsheref v Noem*, 1:25-cv-190-H (N.D. Tex. Dec. 3, 2025) (Dkt. 21 Order) Petitioner was moved to Diamondhead from Bluebonnet following the denial.

Davis, 533 U.S. 678, 690 (2001) the Petitioner should be immediately released and declare that any revocation of his order of supervised release was unlawful without a constitutionally adequate hearing.

28. An orderly departure, commonly provided to noncitizens by sending a Form I-166 (colloquially referred to as a “bag and baggage letter”)⁵, is a process by which ICE directs an individual to appear for removal at a particular date and time. When an individual is ordered removed and either was never detained or has been previously released from custody, it is standard for ICE to provide the individual with an orderly departure as this process saves enforcement and detention resources, and affords an individual the opportunity to put their affairs in order and pursue any further relief for which they may be eligible.

29. Instead of following this common and humane removal procedure, ICE arbitrarily arrested the Respondent at his check-in, handcuffed him and quickly shuttled him to the Detention Facility, without any assertion that he was a flight risk or danger. In doing so, ICE violated its own regulations, statutory authority, and the Petitioner’s constitutionally protected rights.

⁵ A bag and baggage order “issues once the government determines that there is no further administrative relief available to an alien who is subject to an order of removal, and instructs the alien to appear at a specified location and time for removal.” *Singh v. Gonzales*, 494 F.3d 1170, 1772 n.3 (9th Cir. 2007).

CAUSE OF ACTION II
Habeas Corpus Under 28 U.S.C. § 2241

30. Petitioner incorporates by reference paragraphs 1 – 23.

31. Petitioner is in custody in violation of federal law and the Constitution.

a. Indefinite Detention Violates Zadvydas v. Davis

28 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that post-removal-order detention is limited to six months, and continued detention is only lawful if removal is reasonably foreseeable.

29 Here, Petitioner has faithfully reported to his order of supervision, for twenty years. There is no change in circumstances regarding the Petitioner's matter, he is not a flight risk and there is no significant likelihood of removal of the Petitioner in the foreseeable future.

30 The Respondents have made no showing in the past or currently that they can even produce a travel document for the Petitioner in which they can effectuate removal.

31 Continued detention therefore violates both *Zadvydas* and the Immigration and Nationality Act.

b. Constructive Custody and Arbitrary Detention

31. For years, Petitioner lived under an Order of Supervision, constituting

constructive custody because he remained under ICE control.⁶

32. ICE's sudden decision to re-detain him, absent new evidence or changed circumstances, is arbitrary and capricious, violating substantive due process and a violation of 8 CFR § 241.13. Petitioner was provided with no explanation of why he was re-detained, an informal interview or the ability to rebut reasons for re-detention as provided in the regulations.

REQUEST FOR RELIEF

Petitioner pray for judgment against Respondents and respectfully request that the Court enters an order:

1. Issue an order enjoining the Respondents from transferring the Petitioner out of the Western District of Oklahoma during the pendency of this Petition;
2. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from detention and reinstate his prior Order of Supervision;
3. Order Respondents to provide a status report on Petitioner's Removal;
4. Enjoin Respondents from further holding the Petitioner in physical custody absent evidence of imminent ability to remove Petitioner;
5. Enjoin Respondents from removing Petitioner to at third country without

⁶ Plaintiff was geographically restricted and must seek prior approval to travel outside of a set area.

- affording him notice and the ability to challenge third country removal;
6. Declare that Petitioner's continued detention violates federal law and the Constitution;
 7. Award reasonable attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.
 8. Grant any other relief the Court deems just and proper.

Respectfully submitted,

January 20, 2026

/s/Javier Rivera
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Mohamed Nadar Alsheref, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 20th day of January 2026

/s/ Javier Rivera

Javier Rivera