UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

SAMUEL OMORODION, *Petitioner* v. KRISTI NOEM, Secretary of the Department of Homeland Security; TODD LYONS, Acting Director of Immigration and Customs Enforcement; SCOTT LADWIG, Acting Assistant Field Office Director of Enforcement and Removal Operations, New Orleans Field Office, Immigration and Customs Enforcement; KEVIN JORDAN, LaSalle Corrections Facility Administrator, Louisiana ICE Processing Center, *Respondents.*	Case No. _____ **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner is a citizen of Nigeria. An immigration judge (IJ) ordered him removed, but granted Petitioner protection under the Convention Against Torture, preventing his removal to Nigeria. The Board of Immigration Appeals (BIA) affirmed this decision on October 25, 2024.

2. Despite the BIA decision in Petitioner's favor, Immigration and Customs Enforcement (ICE) continued to detain Petitioner for around three months after the favorable BIA decision, seeking a third country to which to remove him. Having failed to find such a country, ICE released him on January 22, 2025.

3. ICE again arrested and detained Petitioner on June 9, 2025, at a routine check-in. Besides a traffic infraction in March 2025, Petitioner had not been arrested or charged with any criminal offence since his release.

4. Petitioner is now detained at the Louisiana ICE Processing Center located in Angola, Louisiana, which is in this District.

5. ICE has not identified any third country to which Petitioner can be removed.

6. ICE can no longer constitutionally detain Petitioner. He has been detained by ICE for over nine months since his removal order became final (and more than six months since his most recent re-detention), his removal is not reasonably foreseeable, and ICE is now violating his right to Due Process under the Fifth Amendment.

7. This Court should grant this petition for writ of habeas corpus and put an end to Petitioner's continued arbitrary detention by ordering his immediate release.

JURISDICTION

8. Petitioner is detained in civil immigration custody at the ICE Processing Center in Angola, Louisiana. ICE has detained Petitioner since on or about June 9, 2025.

9. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

10. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause). This Court may grant relief under 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper here because Petitioner is detained in Angola, Louisiana, which is within the jurisdiction of this District. *See Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 493–500 (1973).

PARTIES

12. Petitioner is a citizen of Nigeria. He is in the custody and under the direct control of Respondents and their agents.

13. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. Respondent Noem is a legal custodian of Petitioner and has authority to release him.

14. Respondent Todd Lyons is sued in his official capacity as the Acting Director of Immigrations and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has authority to release him.

15. Respondent Scott Ladwig is sued in his official capacity as the Acting Field Office Director of the New Orleans Field Office of U.S. Immigration and Customs Enforcement. Respondent Harper is a legal custodian of Petitioner and has authority to release him.

16. Respondent Kevin Jordan is employed as the LaSalle Corrections Facility Administrator of the Louisiana ICE Processing Center, where Petitioner is detained. Respondent Jordan has immediate physical custody of Petitioner. Respondent Jordan is sued in his official capacity.

STATEMENT OF FACTS

17. Petitioner arrived in the United States in 2015 on a valid visa. *See* Ex. C ¶ 3.

18. Petitioner supported himself and his family by working as a welder. *Id.* 4. He has two children born in the United States whom he visits regularly. *Id.* ¶ 5.

19. Petitioner remained in the United States after his visa expired because it was unsafe to return to Nigeria. *Id.* ¶ 3.

20. In April 2024, an IJ ordered Petitioner removed from the United States, but granted his request for deferral of removal to Nigeria under the Convention Against Torture (CAT). *See* Ex. A. The BIA affirmed that decision. *See* Ex. B.

21. Petitioner was detained during his removal proceedings. *See* Ex. C ¶¶ 7–8.

22. Because of Petitioner's CAT protection, ICE could not deport him to Nigeria. ICE told him that it was making efforts to deport him to a third country. *Id.* ¶ 9.

23. ICE released Petitioner on January 22, 2025, on an Order of Supervision (OSUP). *Id.* ¶ 10; *see also* Ex. D.

24. While free from detention by ICE from January 22, 2025, to June 9, 2025, Petitioner lived with his fiancée in Baltimore, Maryland. *See* Ex. C ¶ 12.

25. Petitioner complied with all conditions of his release, including regularly checking in and limiting his out-of-state travel. *Id.* ¶¶ 10–11.

26. On March 24, 2025, Petitioner received citations for driving without a proper license and registration. The judge in that matter simply instructed Petitioner to get a license and dismissed the matter. *Id.* ¶¶ 14–15.

27. On June 9, 2025, ICE re-detained Petitioner at a routine check-in. *Id.* ¶ 16. ICE first moved Petitioner to Winnfield Correctional Facility in Winnfield, Louisiana. *Id.* ¶ 17. Petitioner remains in ICE custody at the ICE Processing Center in Angola, Louisiana. *Id.* ¶ 19.

28. ICE again told Petitioner that it was making efforts to deport him to a third country. *Id.* ¶ 20.

29. Since the BIA decision in October 2024, ICE has had over thirteen months to identify a third country to which to remove Petitioner. ICE has never identified such a country. ICE has not asked Petitioner to cooperate with obtaining travel documents for a specific country. *Id.* ¶ 21.

LEGAL FRAMEWORK

30. Under Section 2243, the Court must either grant the petition for writ of habeas corpus or issue an order to show cause to Respondents, unless this Court determines that Petitioner is not entitled to relief. 28 U.S.C. § 2243. If the Court issues a show-cause order, Respondents must file a response "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

I. Petitioner's detention violates Section 1231(a)(6).

31. Section 1231(a) authorizes detention of noncitizens during the "removal period." 8 U.S.C. § 1231(a)(1)–(2). The removal period is the ninety-day period beginning on the latest of either: (a) "[t]he date the order of removal becomes administratively final"; (b) "[i]f the removal is judicially reviewed and if a court orders a stay of removal of the [noncitizen], the date of the court's final order"; or (c) "[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement." 8 U.S.C. § 1231(a)(1)(B). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen "*may* be detained beyond the removal period" if he meets certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added).

32. Petitioner's removal order became administratively final on or around October 25, 2024, when the BIA upheld the IJ's decision affirming the removal order and granting deferral of removal under CAT.

33. To avoid "indefinite detention" that would raise "serious constitutional concerns," the Supreme Court in *Zadvydas v. Davis* construed § 1231(a)(6) to contain an implicit time limit. 533 U.S. 678, 682 (2001). *Zadvydas* dealt with two noncitizens with final removal orders who could not be removed to their home country or country of citizenship due to bureaucratic and diplomatic barriers. The Court held that § 1231 authorizes detention only for "a period reasonably necessary to bring about the [noncitizen]'s removal from the United States." *Id.* at 689.

34. According to the Supreme Court, six months of post-removal order detention is considered "presumptively reasonable." *Id.* at 701. After that point, if the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the government must either rebut that showing or release him. *Id.* In the Fifth Circuit, the petitioner "bears the initial burden of showing that no likelihood of removal" in the reasonably foreseeable future exists. *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006). Petitioner has been detained for at least six months past the initiation of his removal period. The government has detained Petitioner on two separate occasions: (1) from August 2, 2023, to January 22, 2025; and (2) from June 9, 2025, to the present. This is a total of around twenty-four months of detention, around ten months of which taking place after the removal order became final. Petitioner has spent more than six months in detention since he was re-detained on June 9, 2025.

35. Petitioner's removal is not reasonably foreseeable. Petitioner's home country of Nigeria is not an option, as the IJ ruled, and the BIA affirmed, that CAT protects Petitioner from repatriation there. ICE has not identified a specific third country that will accept Petitioner. ICE has not requested Petitioner's assistance in obtaining a travel document for any country. Based on ICE's representations to Petitioner, ICE has so far made at least three extended efforts to find a third country, both immediately after Petitioner received CAT relief and since he was re-detained in June 2025. On the first occasion, ICE tried to reach an agreement with Ghana, Canada, Niger, and three other countries unknown to Petitioner. On the

second, ICE tried to reach an agreement with England, France, Spain, Germany, and the United Kingdom. Since his most recent re-detention, ICE has tried to reach an agreement with Ghana, Niger, the Central African Republic, and Burkina Faso. ICE has given Petitioner no indication that any of those countries are willing to accept him. On information and belief, ICE has never served Petitioner with a notice of intent to remove him to any other country.

36. Third-country removal is exceedingly rare. The Supreme Court noted in *Johnson v. Guzman Chavez* that, in fiscal year 2017, "only 1.6% of [noncitizens] who were granted withholding of removal were actually removed to an alternative country." 594 U.S. 523, 537 (2021). From FY 2020 to FY 2023, publicly available data shows that ICE removed a total of only *five* noncitizens granted withholding or CAT relief to alternative countries.[1] *See* Ex. E; *see also Munoz Saucedo v. Pittman*, 789 F. Supp. 3d 387, 398 (D.N.J. 2025); *Puertas-Mendoza v. Bondi*, No. 25-CA-890, 2025 WL 3142089, at *3 (W.D. Tex. Oct. 22, 2025) (noting that "foreign governments 'routinely deny' requests to receive people who lack a connection to the would-be receiving country"). Indeed, in another litigation, ICE disclosed a 2024 email from a

[1] Complete raw data for FY 2020 through FY 2023 available at https://deportationdata.org/data.html. Exhibit E excerpts each removal classified under "[5C] Relief Granted – Withholding of Deportation/Removal" or "[5D] Final Order of Deportation / Removal – Deferred Action Granted." It highlights the five individuals in those categories who were removed to countries other than their country of origin. The rest of the deported individuals presumably won withholding or CAT relief with respect to a country different than their country of origin or their withholding or CAT relief was later terminated, neither of which situation applies to Petitioner.

deportation officer stating: "lol no I haven't seen a country actually accept a detainee, I'm not even sure if I'd know what to do if they did actually accept." Ex. F.

37. Further, even if ICE does reach an agreement with another country, Petitioner can seek CAT relief as to that country, which will also prolong his detention. This process will likely take months.

38. Accordingly, Petitioner has met his burden to show that he will not be removed from the United States in the "reasonably foreseeable future" because (1) he cannot be removed to his native country due to his grant of CAT relief; (2) ICE has historically managed to remove only a tiny fraction of noncitizens granted withholding or other relief to alternative countries; (3) ICE has provided no indication that it has been able to secure travel documents to a third country currently or during Petitioner's initial removal period; and (4) removing Petitioner to any alternative country would require additional, lengthy proceedings. *See Puertas-Mendoza*, 2025 WL 3142089, at *4 ("Taken together, the rareness of removal to a third country, ICE's attempts to convince Puertas to consent to removal to a country where he cannot legally be removed, the long period of time between Puertas's removal order and his detention, the initial lack of any explanation for Puertas's detention in 2025, and the cursory explanation ultimately provided show that Puertas's removal is not reasonably foreseeable."); *Gomez v. Mattos*, No. 2:25-cv-975, 2025 WL 3101994, at *5 (D. Nev. Nov. 6, 2025) (finding that petitioner's grant of withholding of removal, coupled with the fact that ICE

"ha[d] not identified a third country that will accept him" satisfied the petitioner's initial burden under *Zadvydas*).

39. Next, the burden shifts to the Government to show that there *is* a "significant likelihood of removal in the reasonably foreseeable future." *See Zadvydas*, 533 U.S. at 701. For the reasons stated *supra*, the government cannot make that showing. As such, Petitioner's continued detention violates 8 U.S.C. § 1231(a).

40. Release is the most common and appropriate remedy for Respondents' *Zadvydas* violation. *See, e.g., Khan v. Gonzales*, 481 F. Supp. 2d 638, 643 (W.D. Tex. 2006) (ordering release when respondents failed to rebut petitioner's showing that there is no significant likelihood of his removal in the reasonably foreseeable future); *see also, e.g., Gomez*, 2025 WL 3101994, at *7 (concluding, in similar OSUP revocation case, that "[b]ecause the Court holds that Petitioner's continued detention violates the Fifth Amendment based on the analytical framework provided in *Zadvydas*, the Court finds that Petitioner's immediate release, subject to reasonable terms of supervision provided under 8 U.S.C. 1231(a)(3), is warranted").

41. To order Petitioner's immediate release, this Court need only determine that his removal is not reasonably foreseeable under *Zadvydas*. It need not analyze whether he poses a danger to the community or is a flight risk. *See Zadvydas*, 533 U.S. at 699–700 ("[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by

statute."); *Tran v. Mukasey*, 515 F.3d 478, 484–85 (5th Cir. 2008) (rejecting the government's argument "that in order to uphold Congress's goal of protecting the public from violent, mentally ill criminals, this Court should find that § 1231(a)(6) authorizes detention for "a reasonable period," because "in light of the unqualified holdings of both *Zadvydas* and *Clark* [*v. Martinez*, 543 U.S. 371 (2005)] that § 1231(a)(6) does not permit continued detention where removal is not reasonably foreseeable, this Court cannot establish an exception where none exists").

42. To the extent that the Court considers the risk of danger or flight, Petitioner does not pose either risk. On January 22, 2025, ICE released Petitioner on OSUP. This shows ICE does not consider Petitioner a flight risk or a danger to his community. While released earlier in 2025, Petitioner was not arrested and did not commit any criminal offense. Indeed, Petitioner has perfect compliance with the terms of his OSUP.

II. Substantive Due Process Bars Respondents from Revoking Petitioner's Release Absent Changed Circumstances.

43. The Fifth Amendment "entitles [noncitizens] to due process of law in deportation proceedings." *Orellana v. Garland*, 117 F.4th 679, 689 (5th Cir. 2024) (quoting *Anwar v. INS*, 116 F.3d 140, 144 (5th Cir. 1997)).

44. Civil detention is constitutional only if it serves a "legitimate nonpunitive governmental objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997); see also *Jackson v. Indiana*, 406 U.S. 715, 737 (1972) (to comply with the Due Process Clause, detention must always bear "some reasonable relation to the

purpose for which the individual was [detained]"); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018).

45. The only constitutional purposes for immigration detention under 8 U.S.C. § 1231(a) are "'ensuring the appearance of [noncitizens] at future immigration proceedings' and 'preventing danger to the community.'" *Zadvydas*, 533 U.S. at 690. Detaining a noncitizen to effectuate any other goal is without statutory basis and thus arbitrary and unconstitutional. *Jackson*, 406 U.S. at 737; *Foucha v. Louisiana*, 504 U.S. 71, 79 (1992).

46. Given the regulatory framework prescribing when and how an OSUP may be rescinded, re-detention is only justified—and therefore only constitutional—if there has been a change in circumstances that leads the agency to believe that the noncitizen has become a danger or a flight risk in the intervening years, such as a new violent arrest or a failure to attend required check-ins, or that there is now a substantial likelihood of reasonably foreseeable future. *See Phongsavanh v. Williams*, No.25cv00426, , 2025 WL 3124032, at *4–6 (S.D. Iowa Nov. 7, 2025) (ordering immediate release when "nothing in the record explains what has changed during the 25 years Phongsavanh was under supervision that would now justify his detention"); *see also* 8 C.F.R. § 241.4(i)(2).

47. When there has been no new violent arrest, failure to attend a required check-in, or other change in circumstances indicating danger or flight risk, the government may only rely on a reasonably foreseeable removal to justify detention. *See* 8 C.F.R. §§ 241.4(l)(2), (i)(2). But as explained, to establish reasonably

foreseeable removal as a basis for detention—especially where there are specific, diplomatic barriers to removal—the government must show individualized evidence as to removability, more than merely "good faith efforts," or "a theoretical possibility of eventually being removed." *Zadvydas*, 533 U.S. at 702; *Balza v. Barr*, No.20cv00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020). The government must also provide individualized evidence of impending removal beyond "conclusory statements that they [are] taking steps to remove [petitioners]" or "unsubstantiated belief" that a travel document will be granted. *Escalante v. Noem*, No.25cv00182, 2025 WL 2206113, at *3–4 (E.D. Tex. Aug. 2, 2025).

48. Changes in government priorities alone do not constitute a change in circumstances. *Villanueva,* 2025 WL 2774610, at *5 ("[W]hile the new administration may have changed how it prioritizes the removals of noncitizens, it may not do so at the expense of fairness and due process"). To release and detain individuals on such whims renders ICE detention punitive in nature. *See Foucha*, 504 U.S. at 80 (prohibiting punishment in civil detention context); *Wong Wing v. United States*, 163 U.S. 228, 237–38 (1896).

49. In sum, without a demonstrable change to the noncitizen's danger to society, flight risk, or the foreseeability of their removal, ICE detention is unmoored from its "carefully limited" statutory purpose and therefore unconstitutional. *See Salerno*, 481 U.S. 739 at 755; *Jackson*, 406 U.S. at 737.

50. Since being released, Petitioner has not been re-arrested, charged, or convicted of any non-traffic, criminal offense; missed any OSUP appointments; or

otherwise failed to comply with OSUP requirements. On the contrary, he has strengthened his community ties, lengthened his clean record, and established a pattern of continued compliance with his OSUP. There has been no demonstrable change to his danger to society or flight risk, or to the foreseeability of his removal.

51. Because Respondents re-detained Petitioner absent a change in circumstances, his re-detention violates his Fifth Amendment right to due process.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1231(a)(6)

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

53. Section 1231(a)(6) 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."). Petitioner's removal is not reasonably foreseeable given his final grant of CAT relief and the unlikelihood of third country removal.

54. Petitioner's detention does not effectuate the purpose of the statute and is accordingly not authorized by Section 1231(a). This violation requires Petitioner's immediate release.

COUNT TWO

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution – Re-Detention Absent Changed Circumstances

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

56. Substantive due process requires that detention always bear "some reasonable relation to the purpose for which the individual was committed." *Jackson*, 406 U.S. at 738.

57. The only constitutional purposes for immigration detention under Section 1231(a)(6) are (1) "ensuring the appearance of [noncitizens] at future immigration proceedings" and (2) "preventing danger to the community." *Zadvydas*, 533 U.S. at 690 (internal quotations and citation omitted).

58. When a noncitizen has been released pursuant to an OSUP, the government must make a determination that the noncitizen does not present a danger to the community, does not present a flight risk, and is not likely to be removed in the reasonably foreseeable future. *See* 8 C.F.R. §§ 241.4(e), 241.13(f)–(h).

59. Therefore, re-detention is only consistent with substantive due process if there is a change in circumstances leading the government to believe that the noncitizen now presents a danger, presents a flight risk, or is likely to be removed in the reasonably foreseeable future.

60. There has been no change in circumstances that would lead the government to believe that Petitioner now presents a danger, presents a flight risk, or is likely to be removed in the reasonably foreseeable future

61. Therefore, just as there was no lawful reason to hold Petitioner in detention at the time that he was released, there is no lawful reason to hold Petitioner in detention now.

62. Because Petitioner's detention serves no lawful purpose, it is not constitutional.

63. Immediate release of Petitioner is therefore appropriate.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Immediately order that Respondents not transfer Petitioner out of their District pending a final order on the Petition;

(3) Declare that Petitioner's ongoing prolonged detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001);

(4) Declare that ICE Respondents' decision to re-detain Petitioner absent changed circumstances violates his substantive due process right under the Fifth Amendment;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately; and

(6) Grant any further relief this Court deems just and proper.

Dated: January 20, 2026

Respectfully submitted,

/s/ Eric R. Nowak
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**pro hac vice* motions forthcoming

Counsel for Petitioner, Samuel Omorodion

Certificate of Service

I hereby certify that on January 20, 2026, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system which will send electronic notification to: Petitioner's counsel of record.

I further certify that I mailed the foregoing document and notice electronic filing by first-class mail to the following non-CM/ECF participants: None.

I also being sent PDF by email to ASUA, Davis Rhorer at: Davis.rhorer@usdoj.gov

/S/ Eric R. Nowak
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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner Samuel Omorodion because I am the Petitioner's attorney. I and my colleagues have discussed with Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 20, 2026

Respectfully submitted,

Bradley A. Smutek
Pro Bono Counsel for Petitioner