

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

Hassan Ayyoubi,	)	
	)	Case No. 3:26-cv-00111
Petitioner,	)	
	)	PETITION FOR WRIT OF
v.	)	HABEAS CORPUS
	)	
Facility Administrator (name unknown), Camp East	)	
Montana Detention Center, in his/her official	)	
capacity,	)	
Mary De Anda-Ybarra, El Paso ICE Field	)	
Office Director,	)	
Jason Stevens, HSI Special Agent in Charge	)	
Todd Lyons, Acting Director U.S. Immigrations	)	
and Customs Enforcement, and	)	
Kristi Noem, U.S. Secretary of Homeland Security	)	
	)	
Respondents.	)	
	)	

INTRODUCTION

1. Petitioner Hassan Ayyoubi is a chronically ill, wheelchair-bound Iranian national who has been detained in U.S. Immigration and Customs Enforcement ("ICE") Custody for over one full year, and whom ICE has failed to deport on numerous occasions due to severe medical conditions that make his removal impossible.

2. Petitioner fled persecution in Iran based on his sexual orientation in 2024. Petitioner arrived in the United States on or about January 5, 2025, and was detained upon entry. Petitioner's *pro se* asylum application was denied on May 12th, 2025. He failed to appeal, meaning his order of removal became final on June 11th, 2025.

3. Upon information and belief, ICE has failed to remove Petitioner to Iran on at least three occasions. On all three occasions, ICE determined that the Petitioner's failing health made it medically impossible for him to undertake the journey.
4. ICE first attempted to remove the Petitioner to Iran after the first-ever deportation to Iran since the Iranian Revolution was organized in September 2025, but he fainted.
5. Subsequently, ICE attempted to remove the Petitioner to Iran in December 2025, but he was deemed physically incapable of sitting on the bus to the facility in Arizona from which the flight would depart.
6. Upon information and belief, there was a third attempt to remove— or at least transfer—petitioner. Petitioner was physically unable to be taken out of his wheelchair. After medical impossibility was established, ICE abandoned this attempt as well.
7. Petitioner's health has unfortunately only continued to decline, meaning removal will continue to be medically impossible. Furthermore, he has numerous underlying chronic medical conditions, meaning that improved medical conditions are unlikely.
8. In addition to Petitioner's severe and chronic medical conditions rendering his removal impossible, there are also numerous country condition factors that make removal to Iran extremely unlikely in the future. The two removals of Iranian nationals to Iran in 2025 were the only two since the Iranian Revolution. Given current country conditions, further removals are particularly unlikely.
9. Accordingly, to vindicate Petitioner's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that he was unlawfully detained and order his release.

JURISDICTION

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
11. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by noncitizens who challenge the lawfulness of their detention under federal law. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas*, 533 U.S. at 687.
12. Venue is proper because on information and belief, Petitioner is detained in the District of West Texas.

PARTIES AND FACTS ALLEGED

13. The Petitioner is a homosexual Iranian national who fled Iran due to fear of persecution based on his sexual orientation.
14. Respondent Mary De Anda-Ybarra is the El Paso Office Director for U.S. Immigration and Customs Enforcement.
15. Respondent Jason Stevens is the El Paso Special Agent in Charge for Homeland Security Investigations for U.S. Immigration and Customs Enforcement.
16. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.
17. Respondent Kristi Noem is the U.S. Secretary of Homeland Security.
18. Respondent Facility Administrator (name unknown), Camp East Montana Detention Center, in his/her official capacity, is the official with immediate physical custody of petitioner and is therefore the Petitioner's immediate custodian.
19. All respondents are named in their official capacities.
20. Petitioner is a Iranian national with pending applications for 1) Asylum, Withholding of Removal, and relief under the Convention Against Torture, and 2) Special Immigrant

Juvenile Status. On information and belief, he was detained on January 15th, 2025, and there is still no imminent plan to remove him.

21. Petitioner is severely and chronically ill.

22. On information and belief, Petitioner is currently in custody in the District of West Texas, and one or more of the Respondents is his immediate custodian.

LEGAL FRAMEWORK

1. Liberty from detention is the rule, rather than the exception, under American jurisprudence. 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. “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) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).
2. The Supreme Court has clearly held that due process dictates that immigration detention cannot be indefinite. Indefinite detention in particular raises a “serious constitutional problem” and violates the Due Process Clause. *Zadvydas*, 533 U.S. at 689–90. Accordingly, the Due Process Clause protects Petitioner’s liberty, and any deprivation of his liberty must be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”). In the context of post-removal immigration proceedings, the government’s interest in detention is to

ensure an individual's presence at the time of removal. *Zadvydas*, 533 U.S. at 680. To the extent that an individual's removal is unforeseeable, their detention becomes unconnected to the government's interest, and thus, unlawful. *Id.*

The 90-day Removal Period

3. The Immigration and Nationality Act ("INA"), 8 U.S.C. § 1231, governs the detention and removal of noncitizens, like Petitioner, who have been ordered removed. Section 1231(a)(2) authorizes only a 90-day period of mandatory post-final-removal-order detention, during which ICE is supposed to effectuate removal. This is known as the "removal period." An individual detained by ICE is entitled to a custody redetermination following the expiration of the removal period. 8 C.F.R. § 241.4. The 90-day removal period has run in Petitioner's case.

Zadvydas & the 180-Day Presumption of Reasonable Detention

4. After the expiration of the removal period, § 1231(a)(6) permits certain noncitizens to be held beyond the removal period if they are inadmissible, or removable on grounds stemming from criminal convictions, security concerns, or if they have been determined to be a danger to the community or a flight risk. *See* 8 U.S.C. § 1231(a)(6). This detention, however, is subject to certain limits as outlined below. Further, § 1231(a)(6) permits these individuals to be released under certain conditions detailed in § 1231(a)(3). Finally, the government may continue to detain certain individuals under extreme circumstances, such as when an individual is a threat to public health, engaged in terrorism, or a particular danger to public safety. *See* 8 C.F.R. § 241.14. This detention is also subject to limits.

5. The Supreme Court has imposed strict limits on who can be detained beyond the 90-day removal period, noting that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690. In *Zadvydas*, the legacy Immigration and Naturalization Service had detained Kim Ho Ma, a Cambodian national, and Kestutis Zadvydas, a man born to Lithuanian parents in a German displaced persons camp, for years after they were ordered removed. *Id.* at 684–86. Purporting to follow the plain text of § 1231(a)(6), the government asserted that the statute committed the question of whether to detain an individual, and for how long, to the executive, not the judiciary. *Id.* at 689.
6. The Supreme Court found squarely in favor of *Zadvydas* and Ma, holding that their prolonged detentions violated the Due Process Clause. *Id.* The Court noted that the indefinite detention scheme in § 1231(a)(6) raised constitutional claims that it had the power to review. *Id.* Further, the Court reasoned that immigration detention, which is civil in nature, is non-punitive in purpose and effect—and must be related to achieving those goals. *Id.* at 690. The Court held that indefinite detention is not permitted in the context of § 1231(a)(6) because it fails to achieve either regulatory purpose of protecting the community or preventing flight to avoid removal—particularly where an individual’s removal is a “remote possibility at best.” *Id.* at 690–92.
7. Interpreting § 1231(a)(6) in a constitutional manner, the Court in *Zadvydas* provided guidance to courts facing questions of prolonged detention under the

statute. First, the Court raised that the primary question for a habeas court is to answer the question of whether the length of an individual's detention is statutorily authorized—here, for the express purpose of presence at the time of removal. *Id.* at 699. In doing so, the Court instructs a habeas court to:

ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal. Thus, if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute. *Id.* at 699–700.

8. Second, as an aid to courts and judicial administration, the Supreme Court in *Zadvydas* decided that detention for 180 days after a final order of removal, including the 90-day removal period, is presumptively reasonable under the INA and Due Process Clause. *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703, 707 (S.D. Tex. 2020) (citing *Zadvydas*, 553 U.S. at 701). The government must release a noncitizen whom it has detained beyond the presumptive 180-day period if it is unable to present documented confirmation that removal is likely to occur in the reasonably foreseeable future. *Clark v. Martinez*, 543 U.S. 371, 386 (2005).
9. In crafting this presumptively reasonable 180-day period, the Supreme Court specifically rejected the Fifth Circuit's reasoning that indefinite detention could remain "lawful as long as 'good faith efforts to effectuate . . . deportation continue' and *Zadvydas* failed to show that deportation will prove 'impossible.'" *Id.* at 702 (quoting *Zadvydas v. Underdown*, 185 F.3d 279, 294 (5th Cir. 1999), *vacated sub nom. Zadvydas v. Davis*, 533 U.S. 67 (2001)).

10. Thus, noncitizens whose removal is not reasonably foreseeable and who have been detained for a period not consistent with the purpose of effectuating removal must be released because their continued detention would violate both § 1231(a)(6) and the Due Process Clause of the Fifth Amendment. *Id.* at 701.
11. The 180-day period of reasonableness for continued detention has closed in Petitioner's. ICE has been unable to effectuate Petitioner's removal due to his failing health

Petitioner's continued detention is a violation of Due Process

12. Petitioner's indefinite detention also presents a due process challenge outside the *Zadvydas* framework. "[A]s-applied constitutional challenges remain available to address 'exceptional' cases." *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 583 (2022); see also *Castaneda v. Perry*, 95 F.4th 750, 761 (4th Cir. 2024) ("We will therefore assume . . . that as-applied due process challenges to §1231 detentions may proceed outside the *Zadvydas* framework when the alien presents, as a threshold matter, exceptional circumstances warranting that departure."). Civil detention is only allowed in narrow circumstances, "where a special justification . . . outweighs the 'individual's constitutionally protected interest in avoiding physical restraint'" under the Fifth Amendment. *Zadvydas*, 533 U.S. at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). Detention as punishment for noncriminal purposes is not allowed. See *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Thus, the Fifth Amendment bars civil detention in conditions that do not reasonably relate to a "legitimate, non-punitive governmental objective." *Cadena v. El Paso County*, 946 F.3d 717, 727 (5th Cir. 2020).

13. Petitioner 90-day removal period has expired. Given that his health condition rendering his removal medically impossible is chronic, he is unlikely to recover to the point that he could be removed.
14. Petitioner's chronic and serious health issues, and the unique impossibility of removal to Iran in the near future, also constitute "exceptional" circumstances that warrant consideration of an as-applied Due Process challenge. *See Johnson v. Arteaga-Martinez*, 596 U.S. at 583.
15. Therefore, Petitioner's continued detention violates the implicit requirement in § 1231(a)(6) that detention should not become unreasonably prolonged after the 90-day statutory removal period.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

1. On information and belief, Petitioner is currently being indefinitely detained by federal agents without any viable plan for removal, and in violation of his constitutional rights to due process of law.
2. Release is the proper remedy for unconstitutionally indefinite post-removal-order detention. *See Zadvydas*, 533 U.S. at 699–700 (explaining that supervised release is the appropriate relief when "the detention in question exceeds a period reasonably necessary to secure removal" because at that point, detention is "no longer authorized by statute").

COUNT TWO

Violation of The Immigration and Nationality Act– 8 U.S.C. §1231

1. Petitioner repeats and realleges each allegation of this petition here.

2. Title 8 U.S.C. § 1231(a) governs the detention of an individual with a final order of removal. The INA permits DHS to detain an immigrant during the “removal period,” which is defined as the 90-day period following the issuance of a final order of removal. *See* 8 U.S.C. §§ 1231(a)(1)(A); 1231(a)(2).
3. Petitioner has not engaged in any conduct to trigger an extension of the removal period under 8 U.S.C. §1231(a)(1)(C). Petitioner has been fully cooperating with all ICE instructions, despite being in extremely poor health.
4. Because Petitioner is well past his 90-day removal period, and he has done nothing to extend the removal period, ICE is necessarily detaining him under §1231(a)(6), which is a discretionary provision. However, there is no “sufficiently strong special justification” for ICE to continue to detain Petitioner. *See Zadvydas* 533 U.S. at 690-91. Thus, Petitioner’s detention violates §1231, and he is entitled to immediate release from custody.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of West Texas;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.

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

Respectfully submitted,

/s/ Andrew Heinrich

Andrew Heinrich

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Dated: January 21, 2026

CERTIFICATE OF SERVICE

I, Jennifer Walker Gates, do hereby certify that on Jan 21, 2026, a copy of the foregoing document was delivered electronically to the United States District Court for the Western District of Texas at 525 Magoffin Avenue, Suite 105, El Paso, TX 7990. This document was filed electronically through PACER and both parties are participating in PACER. Therefore, no separate service was completed.

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