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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Hamid SAMADI,

Petitioner,

v.

Jason STREEVAL, Warden of Stewart
Detention Center, in his official capacity;
George STERLING, Deputy Field Office
Director of the Atlanta Field Office, U.S.
Immigration and Customs Enforcement; Todd
LYONS, in his official capacity as acting
Director of U.S. Immigration and Customs
Enforcement, Kristi NOEM, in her official
capacity as Secretary of the U.S. Department
of Homeland Security, and Pamela BONDI,
in her official capacity as U.S. Attorney
General; Daren MARGOLIN, Director for
Executive Office for Immigration Review,

Respondents.

HEARING REQUESTED

Case No.:

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Mr. Hamid Samadi, was given voluntary departure from the United States on March 21, 1986, by the Houston, Texas Immigration Court. The grant of voluntary departure converted to an order of removal. The initiation of removal proceedings followed an arrest for a theft offense and a guilty plea with a suspended sentence of one year and one day. In 1984, he was taken into ICE custody and was eventually released during his deportation proceedings. In April 2003, he was detained once again, in Atlanta, Georgia. In September 2003, a writ of habeas corpus was filed in the Southern District of Louisiana, and in February 2004, he was released from custody pursuant to the Supreme Court's ruling in *Zadvydas v. Davis*, 533 U.S. 678 (2001), having spent approximately 10 months in custody. He was placed on an Order of Supervision ("OSUP"), and he has been reporting to ICE ever since on an annual basis..

2. Mr. Samadi reported annually to ICE from 2004 until the present, when he was once again detained by ICE on December 11, 2025. There are no changed circumstances in Mr. Samadi's life. In fact, Mr. Samadi is currently married to a US Citizen, and he has two U.S. Citizen children. ICE did not inform Mr. Samadi of any ability to remove him, nor of any specific change in circumstance that warranted his unlawful re-detention. ICE did not have travel papers for him, and in fact had tried to obtain such papers for years but were unsuccessful in doing so.

3. Since his unlawful re-detention, Mr. Samadi has not been informed of any progress in removing him, nor has he received any notification of the basis of his current unlawful detention.

4. Mr. Samadi remains in U.S. Immigration and Customs Enforcement ("ICE") custody in Stewart, Georgia despite ICE having no foreseeable timeframe for removal, in violation of the Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Mr. Samadi's continued detention is arbitrary and unlawful, and he requests that this Court order his immediate

release from ICE custody.

5. Mr. Samadi's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, because his removal is not reasonably foreseeable, and he has already previously served more than 180 days in ICE custody, post removal order. ICE does not have the constitutional right to re-detain Mr. Samadi, absent changed circumstances meeting the standard of *Zadvydas* (imminent removal or being able to prove that Mr. Samadi is either a flight risk or danger to the community). ICE's intent to remove Mr. Samadi to Iran, or any other country they arbitrarily select, to which he will likely have no ties—are speculative and futile.

6. The Eleventh Circuit has held that the six month “presumptively reasonable” period of post removal order detention recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001), “commences at the beginning of the removal period,” that is, when the removal order becomes administratively final. *See Akinwale v. Ashcroft*, 287 F.3d 1050, 1051–52 (11th Cir. 2002) (per curiam). Once that period has elapsed, continued detention is permissible only if there is a significant likelihood of removal in the reasonably foreseeable future.

7. ICE may not evade the limits imposed by *Zadvydas* and *Akinwale* by cycling a noncitizen in and out of custody on the same long-standing removal order, particularly where, as here, there is no material change in the government's ability to effectuate removal. Allowing ICE to “restart” the *Zadvydas* clock with each episode of re-detention would effectively permit the very indefinite detention the Supreme Court rejected.

8. Petitioner therefore seeks a writ of habeas corpus ordering his immediate release from ICE custody under appropriate conditions of supervision and enjoining Respondents from continuing his unlawful detention absent a demonstrated, significant likelihood of removal in the reasonably foreseeable future.

9. Furthermore, ICE’s detention of Mr. Samadi without prompt, individualized determinations of whether he should remain detained is inconsistent with ICE’s own long-standing policy, thereby violating the Administrative Procedure Act (“APA”) and procedural and substantive due process. *See Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

JURISDICTION AND VENUE

10. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (“Declaratory Judgment Act”).

11. 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; and the All Writs Act, 28 U.S.C. § 1651. Additionally, the Court has jurisdiction to grant injunctive relief in this case pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. 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).

12. The district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

13. Federal courts also have federal question jurisdiction, through the APA, to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable in habeas.

5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. Respondents’ continued detention of Petitioner up to and past the 90-day removal period has adversely and severely affected Petitioner’s liberty and freedom.

14. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at the Stewart Detention Center in Lumpkin, Georgia. *Ex. A, Ice Detainee Locator.*

PARTIES

15. Petitioner, Mr. Samadi, is a native and citizen of Iran who initially entered the United States in 1977 in valid F-1 status. Mr. Samadi was ordered removed on March 21, 1986. Petitioner has been dutifully reporting to ICE on an Order of Supervision (“OSUP”) since his last release from ICE custody in 2004.

16. Respondent Jason Streeval is the Warden of Stewart Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. Samadi is detained. Because ICE contracts with state prisons such as Folkston to house immigration detainees such as Mr. Samadi, Respondent has immediate physical custody of the Petitioner. He is sued in his official capacity.

17. Respondent George Sterling is sued in his official capacity as the Deputy Field Office Director of the Atlanta Field Office for ICE. As Deputy Director of the Atlanta Field Office of ICE, Mr. Sterling is responsible for the administration and enforcement of the policies and procedures for ICE’s detention of Mr. Samadi at Folkston. Mr. Sterling is a legal custodian of

Petitioner. He is sued in his official capacity.

18. Respondent Todd Lyons is sued in his official capacity as acting Director of ICE. As Acting Director of ICE, Mr. Lyons is responsible for the administration and enforcement of the policies and procedures for ICE. He is a legal custodian of Petitioner. He is sued in his official capacity.

19. Respondent Kristi Noem is sued in her capacity as Secretary of Department of Homeland Security ("DHS"). As Secretary of DHS, Ms. Noem is responsible for the administration and enforcement of the immigration laws of the United States. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in his official capacity.

20. Respondent Pamela Bondi is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals ("BIA") and the immigration courts. The Attorney General shares responsibility for the implementation and enforcement of the immigration laws with Respondents Lyons and Noem. She is sued in her official capacity.

21. Respondent Daren Margolin is the Director of the Executive Office for Immigration Review ("EOIR"). He has ultimate responsibility for overseeing the operation of the immigration courts and the BIA, including the conduct of bond hearings. Director Margolin is sued in his official capacity.

LEGAL FRAMEWORK

22. According to 8 U.S.C. § 1231(a)(1)(A), the government "shall remove the alien from the United States within a period of 90 days (in this section referred to as the "removal period")." "During the removal period, the Attorney General shall detain the alien." 8 U.S.C. § 1231(a)(2)(A).

23. Additionally, 8 C.F.R. § 241.13(i) governs the re-detention of a noncitizen with an Order of Supervision (“OSUP”). ICE may re-detain a noncitizen “if, on account of changed circumstances, [ICE] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

24. Factors that ICE considers in the re-detention determination include “the noncitizen’s efforts to comply with the removal order; the history of ICE’s efforts to remove individuals to the destination country or to third countries; the ongoing nature of ICE’s efforts to remove the particular noncitizen and his assistance with those efforts; the reasonably foreseeable results of those efforts; and the views of the Department of State regarding the prospects for removal to the countries in question. 8 C.F.R. § 241.13(f).” *Phongsavanh v. Williams*, 2025 WL 3124032, at *5–6 (S.D. Iowa 2025).

25. In *Zadvydas*, the Supreme Court held that “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). The Supreme Court in *Zadvydas* also determined that a six-month detention is presumptively reasonable, but that this presumption is rebuttable. *See Zavvar v. Scott, et al*, 2025 WL 2592543 (D. Md. Sept. 8, 2025) (holding that the 6-month presumption is rebuttable); *Munoz-Saucedo v. Pittman*, 2025 WL 1750346, at *6 (D.N.J. June 24, 2025); see e.g., *Ali v. Dep’t of Homeland Security*, 451 F. Supp. 3d 703, 707 (S.D. Tex. 2020) (holding that the “six-month presumption is not a bright line” and that *Zadvydas* “did not require a detainee to remain in detention for six months . . . before a habeas court could find that the detention is unconstitutional”); *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (C.D. Cal. 2018) (“The Supreme Court in *Zadvydas* outlined a ‘guide’ for approaching these detention challenges . . . not a prohibition on claims challenging detention less than six months.” (quoting *Zadvydas*, 533 U.S. at 700–01)); *Cesar v.*

Achin, 542 F. Supp. 2d 897, 905 (E.D. Wis. 2008) (concluding that “while detention pursuant to § 1231(a)(6) for up to six months is presumptively lawful, an alien may still state a claim for and demonstrate a constitutional violation within the six-month window”).

26. The clock does not reset once Mr. Samadi was released after his initial 180 day detention period. *Zadvydas* requires Petitioner to show that there is “no significant likelihood of removal in the reasonably foreseeable future.” 533 U.S. at 701. For more than 23 years, the government of Iran has been unable or unwilling to issue travel documents for Petitioner’s return. *Ex. B*, Copy of Embassy Letter. Thus, Petitioner has been dutifully reporting to ICE ever since. *Ex. C*, Copy of OSUP Documents.

27. Additionally, non-citizens with a final order of removal can seek forms of relief before the Immigration Court by first requesting a Reasonable Fear Interview (“RFI”) if they express a fear of removal to said country, even if multiple countries are sought pursuant to the Asylum Cooperative Agreements (“ACA”). Depending on the finding of a RFI, a respondent may then be eligible to pursue withholding of removal and CAT relief before the Immigration Court. A respondent’s eligibility for withholding of removal is found in § 1231(b)(3)(B)(iii), and there are no restrictions on eligibility for CAT deferral of removal. 8 C.F.R. § 1208.16.

28. To be granted CAT relief, a noncitizen must show that “it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2). An applicant for CAT relief must show a higher likelihood of torture than the likelihood of persecution an asylum applicant must demonstrate. *See id.*

29. When a noncitizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. See 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is

authorized to remove noncitizens who were granted withholding or CAT relief to alternative countries, see 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Noncitizens can be removed, for instance, to the country “of which the [noncitizen] is a citizen, subject, or national,” the country “in which the [noncitizen] was born,” or the country “in which the [noncitizen] resided” immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)-(E).

30. Additionally, if ICE identifies an alternative country of removal under the ACA, ICE must undergo further proceedings in immigration court to effectuate removal to that country.¹ See *Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [noncitizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, see 8 CFR §§ 208.16(c)(4), 208.17(a) (2004) . . .”); *Romero v. Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims.”), rev’d on other grounds, *Guzman Chavez*, 141 S. Ct. 2271.

31. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established “special review procedures” to determine whether detained noncitizens with final removal orders are likely to be removed in the reasonably foreseeable future. See Continued Detention of Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4’s custody review process remained largely intact, subsection (i)(7) was added to include a supplemental review procedure that ICE HQ must initiate when “the [noncitizen]

submits, or the record contains, information providing a substantial reason to believe that removal of a detained [noncitizen] is not significantly likely in the reasonably foreseeable future.” *Id.* § 241.4(i)(7).

32. Under this procedure, ICE HQ evaluates the foreseeability of removal by analyzing factors such as the history of ICE’s removal efforts to third countries. *See id.* § 241.13(f). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on “special circumstances,” it must justify the detention based on narrow grounds such as national security or public health concerns, *id.* § 241.14(b)-(d), or by demonstrating by clear and convincing evidence before an IJ that the noncitizen is “specially dangerous.” *Id.* § 241.14(f).

STATEMENT OF FACTS

33. Mr. Samadi is a native and citizen of Iran. He entered the United States in 1977 on an F-1 student visa. He pled guilty to a theft offense in 1983, and he was placed into removal proceedings and ordered removed in 1986. Petitioner was detained by ICE in 2003, released in 2004 following a previous habeas in the Southern District of Louisiana, and then placed on an OSUP until now.

34. Mr. Samadi is married to a U.S. citizen since 2015, and he is the beneficiary of an approved I-130 immediate relative petition. They share two U.S. citizen children together, and if his removal proceedings are reopened, he would be eligible to adjust his status in the U.S.

35. In the month since Mr. Samadi has been detained, ICE has not notified Petitioner of any progress in his removal, and despite previous efforts to secure travel documents, none were ever issued.

36. To Mr. Samadi’s knowledge, no country has provided any indication that they would accept Mr. Samadi in the reasonably foreseeable future, and ICE has not suggested to Mr.

Samadi that a third country alternative is reasonably foreseeable.

37. For all the reasons stated within, Mr. Samadi's removal is not significantly likely to occur in the reasonably foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001).

ARGUMENT

38. Mr. Samadi will very likely never be removed to Iran, let alone in the reasonably foreseeable future. Additionally, it is unlikely he will be removed to a third country, in the alternative. Though, if ICE seeks removal to Iran, or to a third country, they are required to give him notice and an opportunity to respond accordingly.

39. Importantly, *Zadvydas* focuses on the commencement of the "presumptively reasonable" removal period, which begins when the order of removal becomes administratively final. *See* 8 USC 1231(a)(1)(B). For Mr. Samadi, that began in March of 1986. Further, the Eleventh Circuit has held that for the detention to fit within the parameters offering relief pursuant to *Zadvydas*, the six-month period must have expired. *See Akinwale v. Ashcroft* 287 F.3d 1050, 1051–52 (11th Cir. 2002) (per curiam). Long after Mr. Samadi's removal period expired, he was then detained by ICE in Atlanta in April 2003, and he was not released until February 2004, *more than 10 months later*. Clearly, he satisfied the threshold laid out in *Zadvydas* many years ago. The Respondents had an additional 22 years beyond his last period of confinement to secure travel documents and effectuate his removal.

40. While there is no caselaw directly on point in the Eleventh Circuit regarding the re-detention of a detainee, like Mr. Samadi, and how the detention period is then calculated under *Zadvydas*, other courts are instructive on this issue. In 2023, the First Circuit "set forth the circumstances under which ICE may redetain a person". *See Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)). The Court held that a person released on

supervision is, “governed by ICE’s own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future”. *Id.* The District Court of Rhode Island further analyzed the issue of “re-detention” in *Kong* and held that ICE’s determination that the detainee could be removed pursuant to the outstanding order of removal was “circular reasoning” and that, “the change of circumstances is that ICE has determined there is a change of circumstances, without noting what those circumstances are, [and] cannot meet the basic burden imposed by ICE’s own regulations. See *Nguyen v. Lyons*, 25-cv-631-MSM-PAS (R.I. Dist Ct., January 16, 2026). See also, *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4–5 (E.D. Cal. July 16, 2025) (rejecting the assertion that a change in circumstances exists because there is a pending updated travel document request, the 2020 treaty MOU with Vietnam, or the fact that there are removals to Vietnam of pre-1995 immigrants); *Nguyen v. Hyde*, 788 F. Supp. 3d at 149–52 (same); *Roble v. Bondi*, No. 25-CV-3196 (LMP/LIB), 2025 WL 2443453, at *4–5 (D. Minn. Aug. 25, 2025) (finding ICE’s argument that its efforts to remove a noncitizen constituted changed circumstances, falling “woefully short”); *Hernandez Escalante v. Noem*, No. 9:25-cv-00182-MJT, 2025 WL 2206113, at *3–4 (E.D. Tex. Aug. 2, 2025) (finding “conclusory statements that [ICE] are taking steps to remove Petitioner” as insufficient to show a significant likelihood that removal will occur in the reasonably foreseeable future); *Sun v. Noem*, No. 3:25-CV-02433-CAB-MMP, 2025 WL 2800037, at *3 (S.D. Cal. Sept. 30, 2025) (same).

41. Even in the highly unlikely scenario that an alternative country notifies ICE of its willingness to accept the deportation of Mr. Samadi, ICE would still be required to obtain travel documents, notify him, and afford him a Reasonable Fear Interview (“RFI”) if he expresses fear – at which point he would have the opportunity to articulate his fear of being removed to the country

willing to accept him. *See* 8 C.F.R. § 241.8(e). If an Asylum Officer (“AO”) were to find that Mr. Samadi demonstrated a reasonable possibility of persecution or torture following the RFI, or an immigration judge subsequently vacated a negative finding by the asylum officer, he would enter withholding-only proceedings before a judge in which he would again seek to demonstrate his eligibility for withholding or CAT relief with respect to that country.

42. Mr. Samadi’s removal is not reasonably foreseeable because 1) it is unlikely Iran will agree to receive him back; 2) ICE has historically managed to remove only a tiny fraction of Iranian nationals; 4) any countries to which requests may still be pending have no logical reason to accept Mr. Samadi’s removal, and there has been no offered timeline to indicate otherwise; and 5) removing Mr. Samadi to an alternative country would require additional, lengthy proceedings. *See Hassoun v. Sessions*, No. 18-cv-586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019) (finding removal not reasonably foreseeable where several countries had declined to issue travel documents and several others had provided no response or timeline for response); *Kacanic v. Elwood*, No. 02-cv-8019, 2002 WL 31520362, at *5 (E.D. Pa. Nov. 8, 2002) (finding removal not reasonably foreseeable where the country of origin had “been in possession of all the information [ICE] is capable of providing to it” but had “never stated that the Petitioner is likely to be granted travel papers” and was “unable to tell the [ICE] when a decision will be reached”).

43. Evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the government’s burden to establish that an alien petitioner will be deported within the reasonably foreseeable future. *See Thompson v. INS*, 2002 U.S. Dist. LEXIS 23936 (E.D. La. Sept 16, 2002) (government failed to show that alien’s deportation to Guyana was reasonably foreseeable where the government offered historical statistics of repatriation to Guyana but failed to show any response from Guyana on the application for travel documents that INS and the

petitioner had requested). Rather, for the government to meet its burden of showing that an alien's repatriation is reasonably foreseeable, it must provide some meaningful evidence particular to the individual petitioner's case.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8

U.S.C. § 1231(a)(6)

44. Mr. Samadi re-alleges and incorporates by reference paragraphs 1 through 43 above.

45. Mr. Samadi's continued detention by the Respondent violates 8 U.S.C. § 1231 (a)(6), as interpreted in *Zadvydas*. 8 U.S.C. § 1231 (a)(6) authorizes detention only for "a period reasonably necessary to bring about the alien's removal from the United States. Mr. Samadi's presumptively reasonable period for continued removal efforts passed years ago. Petitioner's removal is not reasonably foreseeable, and he must be immediately released.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

46. Mr. Samadi re-alleges and incorporates by reference paragraphs 1 through 45 above.

47. Mr. Samadi's continued detention violates his right to substantive due process by depriving him of his core liberty interest to be free from bodily restraint. See, e.g., *Tam v. INS*, 14 F. Supp. 2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights). The Due Process Clause requires that the deprivation of petitioner's liberty be narrowly tailored to serve a compelling government interest. See *Reno v. Flores*, 507 U.S. 292, 301-02 (1993). While the respondents would

have a compelling government interest in detaining Mr. Samadi in order to effect his removal, that interest does not exist if Petitioner cannot be deported. The Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. § 1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal because any other reading would go beyond the government's articulated interest-- to effect the alien's removal. See *Kay v. Reno*, 94 F. Supp. 2d 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus because petitioner's substantive due process rights were violated and noting that "[i]f deportation can never occur, the government's primary legitimate purpose in detention--executing removal--is nonsensical").

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

48. Petitioner re-alleges and incorporates by reference paragraphs 1 through 47 above.

49. Under the Due Process Clause of the United States Constitution, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. In the instant case, Mr. Samadi has been denied that opportunity as there is no administrative mechanism in place for him to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

50. Even where detention meets the *Zadvydas* standard for reasonable foreseeability, detention violates the Due Process Clause unless it is "reasonably related" to the government's purpose, which is to prevent danger or flight risk. See *Zadvydas*, 533 U.S. at 690–91 (discussing twin justifications of detention as preventing flight and protecting the community). Thus, due process requires a meaningful determination that petitioner poses a danger or flight risk that warrants post-final-order detention, regardless of whether their removal can be effectuated within a reasonable period of time.

51. The government’s own regulations contemplate this requirement. They dictate that even after ICE determines that removal is reasonably foreseeable—and that detention therefore does not per se exceed statutory authority—the government must still determine whether continued detention is warranted based on flight risk or danger. See 8 C.F.R. § 241.13(g)(2) (providing that where removal is reasonably foreseeable, “detention will continue to be governed under the established standards” in 8 C.F.R. § 241.4).

52. The regulations, at 8 C.F.R. § 241.4, set forth the custody review process that existed even before the Supreme Court’s decision in *Zadvydas*. This mandated process, known as the post-order custody review, requires ICE to conduct “90-day custody reviews” prior to expiration of the 90-day removal period and to consider release of individuals who pose no danger or flight risk, 8 C.F.R. § 241.4(e)-(f). Among the factors to be considered in these custody reviews are “ties to the United States such as the number of close relatives residing here lawfully;” whether the noncitizen “is a significant flight risk;” and “any other information that is probative of whether” the noncitizen is likely to “adjust to life in a community,” “engage in further acts of violence,” “engage in future criminal activity,” pose a danger to themselves or others, or “violate the conditions of his or her release from immigration custody pending removal from the United States.” *Id.*

53. Mr. Samadi fits within the factors enumerated above to have warranted his release from custody before the filing of the instant habeas petition.

COUNT FOUR

ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE

ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

54. Petitioner realleges and incorporates by reference paragraphs 1 through 53 above.

55. Courts must “hold unlawful and set aside agency action” that is “arbitrary,

capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

56. ICE has deviated from its own policy in re-detaining Petitioner more than 22 years after they failed to secured travel documents, without determining whether exceptional circumstances warrant his re-detention. This is arbitrary, capricious, and contrary to law in violation of the APA.

57. As a remedy, this Court should conduct its own review of Petitioner’s custody or, at least, order ICE to review Petitioner’s custody under the standard articulated in ICE policy.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner’s continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6); the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution.
- 3) Order Petitioner’s immediate release or in the alternative, stay Mr. Samadi’s removal pending a decision on the habeas petition;
- 4) Order Respondents to refrain from transferring Mr. Samadi out of the jurisdiction of the ICE Warden during the pendency of these proceedings and while the Petitioner remains in Respondent’s custody; and
- 5) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Dated: January 23, 2026.

Respectfully submitted,

/s/ Danielle M. Claffey

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