

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 26 2026

JEFFREY P. COLWELL
CLERK

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the

District of Colorado

Basim Ali Ismail Beour
Petitioner

TODD M. Lyon, Denver Acting Director
Robert Guadian, Denver Field Director
Juan Baltazar, Aurora ICE, ICE Warden
Respondent
(name of warden or authorized person having custody of petitioner)

Case No. _____
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- (a) Your full name: Basim Ali Ismail Beour
(b) Other names you have used: _____
- Place of confinement:
(a) Name of institution: Aurora ICE Processing Center
(b) Address: 3130 North Oakland Street
Aurora, CO 80010
(c) Your identification number: [REDACTED]
- Are you currently being held on orders by:
 Federal authorities State authorities Other - explain: _____
- Are you currently:
 A pretrial detainee (waiting for trial on criminal charges)
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
 Being held on an immigration charge
 Other (explain): _____

Decision or Action You Are Challenging

- What are you challenging in this petition:
 How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): _____

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: Aurora ICE Processing Center
- (b) Docket number, case number, or opinion number: _____
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Being detained by ICE in violation of my constitutional rights without proper due process.
- (d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**
Did you appeal the decision, file a grievance, or seek an administrative remedy?
 Yes No
- (a) If "Yes," provide:
- (1) Name of the authority, agency, or court: _____
 - (2) Date of filing: _____
 - (3) Docket number, case number, or opinion number: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- This habeas corpus is my 1st legal action.
- (b) If you answered "No," explain why you did not appeal:
This is my first legal action.

8. **Second appeal**
After the first appeal, did you file a second appeal to a higher authority, agency, or court?
 Yes No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

N/A

(b) If you answered "No," explain why you did not file a second appeal: _____

N/A

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

N/A

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

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If "Yes," provide:

- (1) Name of court: _____
 - (2) Case number: _____
 - (3) Date of filing: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- N/A

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

N/A

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 03/06/2025
- (b) Date of the removal or reinstatement order: 2019
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

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If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____
NIA

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
NIA

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____
NIA

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Grounds for Your Challenge in This Petition

- 13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: I am a North Sudan Citizen 40 y/o, who entered into US on 09/28/2005 as a UN refugee and was granted Asylum due to my participation [REDACTED]

(a) Supporting facts (Be brief. Do not cite cases or law.):

On 2017 I was in jail for 9 months for possession of Drug. When I was released I was transferred to Aurora ICE Processing Center. I was released on Feb 02 2020 with a supervision without ankle monitor. I relapsed in late 2023. 2 charges of possession (F2-F3). 11 months in jail. Probation 36 months, which was terminated in 3 months due to an outpatient drug program.

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: On March 06 2025 I was in a traffic stop and the police called ICE and I was sent to Aurora ICE Processing Center where I was told that I was going to be deported to my country (Sudan) even though I was a UN refugee with Asylum in US.

(a) Supporting facts (Be brief. Do not cite cases or law.):

[REDACTED]

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: In August, 2025 I was served with a notice to continue in ICE custody under the premises that I am a Risk of flight, a danger to community and I was going to be deported any time soon.

(a) Supporting facts (Be brief. Do not cite cases or law.):

I am not a risk of flight. No place to go. I live in UTAH with my whole family. Mother, Brothers and sisters, Uncle, Girl friend. All my relatives support me. I am not a danger to community. I have no criminal record of violent crimes.

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

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GROUND FOUR: I did not received a 6 month review explaining to me the reasons for continuing under ICE custody. I was denied my right to have a "credible fears" interview by USCIS

(a) Supporting facts (Be brief. Do not cite cases or law.):

As of today (01/19/2026) I have been into ICE custody for 289 day which is beyond the reasonable time allowed by law. During this long period of time I have been transferred to multiple facilities such as Wyoming, Texas, Louisiana, Arizona and back to Denver, CO. I was returned to Avond without any explanation regarding these transfers. The ICE did not deposit me at all.

(b) Did you present Ground Four in all appeals that were available to you?

Yes

No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: To order Respondents to show causes why the court should not granted me this habeas corpus. I also request that Respondents also be ordered to transfer me out of the jurisdiction of Colorado pending of petition resolution. If ICE fails to respond in the next 20 days, I request immediate release from custody.

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Declaration Under Penalty Of Perjury

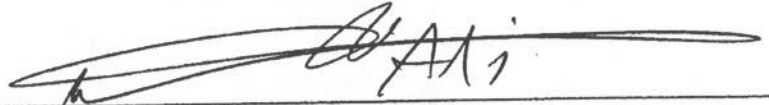
If you are incarcerated, on what date did you place this petition in the prison mail system:

1/22/26

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

1/19/2026



Signature of Petitioner

Signature of Attorney or other authorized person, if any

Print

Save As...

Reset

**MEMORANDUM OF LAW IN SUPPORT OF PETITION OF WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241**

Name: Basim Ali Ismail Beibue

Alien Registration No. 

Pro Se Petitioner-Detained

Detention Center: Aurora ICE

Processing Center

Address: 3130 North Oakland Street

Aurora, CO 80010

INTRODUCTION

1. Petitioner, BASIM ALI ISMAIL BOIDUR petitions this Court for a Writ of Habeas Corpus to remedy Petitioner's indefinite detention by Respondents. Petitioner submits this Memorandum of Law in Support of the Petition for a Writ of Habeas Corpus.
2. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), noncitizens cannot be detained indefinitely if the government is unable to carry out their removal. Instead, detention after a final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* established a presumption that detention after a final order of removal was permissible for six months. Detention after a final order may be unlawful even when six months have not passed, particularly if it is clear that the United States will not be able to effect a noncitizens's removal. But after that six months period, once a noncitizen provides "good reason to believe that there is not significant likelihood of removal in he reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." And the longer a noncitizen has been detained, the stronger the government's showing must be.
3. Petitioner is entitled to release under the framework of *Zadvydas* unless the government promptly demonstrate that there is a significant likelihood of removal in the reasonably foreseeable future.
4. Petitioner respectfully request that the Court use its authority under 28 U.S.C. § 2243 To order the Respondents to file a return within three days, unless they can show good cause

for additional time. See 20 U.S.C. § 2243 (stating that an Order to Show Cause why a petition for a Writ of Habeas Corpus should be denied is returnable “within three days unless for good cause additional time, not exceeding twenty days, is allowed”).

5. In order to permit full judicial review of the claim herein and requested relief, Petitioner respectfully requests that the Court orders Respondents not to transfer Petitioner outside the jurisdiction of this Court pending considerations of this petition.

STATEMENTS OF FACTS

6. Petitioner was born in: Sudan.
7. Petitioner entered the United States on or about: 09/28/2005.
8. An Immigration Judge ordered Petitioner removed from the United States on or about: 2019.
9. Regarding Appeals: _____
_____ N/A _____

10. Petitioner has cooperated fully with all of ICE’s efforts to remove Petitioner. Petitioner has cooperated with ICE in the following ways: _____
_____ N/A _____

11. Nonetheless, ICE has been unable to remove Petitioner from the United States. ICE is unlikely to remove Petitioner in the reasonably foreseeable future because: _____

There is no President, neither Government in my country right now.

12. Regarding Petitioner Detention: _____

Release from ICE custody

13. I release, Petitioner will be supported by family and friends in the United States. In particular: _____

my Civil friend, mother, brothers and sisters uncle. All of them support me

ARGUMENT

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA") §§ 101-507, 8 U.S.C. § 1101-1537, amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-1570.

15. This Court has jurisdiction under 28 U.S.C. § 2241, The Suspension Clause, U.S. Const. Art. 1 § 9, cl 2, and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and Petitioner's custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas*, 566 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (Habeas Corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).
16. The Due Process Clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary or permanent." *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical lies at the heart of the liberty that [the Due Process] Clause protects." 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Court noted, "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem," *Id.*; *see also Plyer v. Doe*, 457 U.S. 202, 210 (1982) ("Aliens, even aliens whose presence in this country is unlawful, have long been recognized as "persons" guaranteed due process of law by the Fifth and Fourteenth Amendments").
17. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal "shall" be detained during the first 90 days—the "removal period"—and they "shall" be removed during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), the government "may" continue detention beyond the 90-days removal period if a noncitizen falls within certain broad categories of removability or is determined "to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

18. In *Zadvydas*, the Supreme Court construed 8 U.S.C. § 1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. at CITE. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to the government to “respond with evidence sufficient to rebut [the alien] showing,” *Id.* At 701.
19. Courts have rejected conclusory claims by ICE agents which claim, without submitting concrete factual information about scheduled flights or repatriation agreements, that removal is imminent. “[A] theoretical possibility of eventually being removed does not satisfy the government’s burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future.” *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020) (internal quotation and citation omitted). “[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Id.* at *5 (internal quotation marks and citation omitted). *See also, Gomez Barco v. Witte*, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had not be able to secure necessary travel document, noting that the ICE officer “clearly has no factual basis for his ‘belief’ that there is not foreseeable impediment of Petitioner’s removal or that her removal is imminent,” and that there was not foundation for the “expectation” that the COVID-19 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La.

Oct. 14, 2020) (same).¹ In granting Ms. Balza's release, the Court considered and rejected a conclusory declaration by a local ICE Assistant Field Officer that removal was imminent. *Id.* at *5. In *Alexis v. Smith*, the Petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with identity documents and it was unknown when that would be resolved. The magistrate did not credit ICE's vague statements that it was "endeavoring to rectify the issue" and conclude there was no end in sight for detention, and recommended release. The District Court Judge agreed and ordered release. ICE then released Mr. Alexis on an Order of Supervised release and moved to get the judgment vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District Court Judge on this subject, and this case is still informative and persuasive to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) report and recommendations adopted. No. CIV.A. 11-0309, 2011 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-0309, 2011 WL 13386020 (W.D. La. Sept. 15, 2011).

20. Courts in this Districts have—pursuant to *Zadvydas*—released individuals who have been detained for over six months. *See, e.g. Gomez Barco*, 2020 WL 7393786 (ordering released of an immigrant detained who was a native and citizen of Venezuela who was

¹ Other districts courts in the Fifth Circuit and Elsewhere have similarly granted Habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting habeas relief to petitioner detained for approximately sixteen months due to a lack of diplomatic relations with Venezuela); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3D 703 (S.D. Tex. 2020) (granting habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Saharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond a travel document request for more than seven months).

detained longer than six month because ICE had not been able to secure necessary travel documents); *Balza*, 2020 WL 6143643, at *5 (ordering release of petitioner and nothing that “[a]fter more than a year of detention, Petitioner’s removal need not necessarily be imminent, but it cannot be speculative”) (internal quotation marks omitted).

21. Under *Zadvydas*, courts have found that there is no significant likelihood of removal and granted relief where:

- No country will accept the petitioner. *See, e.g. Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner detained for more than fourteen months after numerous countries refused to repatriate the petitioner).²
- The Petitioner’s country of origin refuses to issue a travel document, *See. e.g., Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas release to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermine v. Dir. Of Immigr. Custom Enf’t*, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad’s refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner detained nineteen months because Nigeria refused to issue travel documents due to petitioner’s HIV status).³

² *See also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) (ordering release of petitioner detained fourteen months after petitioner showed “that the countries with he has any affiliation will not accept him”), *Yusupov v. Love*, No. 4:CV-06-1804, 2007 WL 5063231 (M.D. Pa. Jan. 12, 2007); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D. Pa. 2004) (ordering release of petitioner detained approximately two years after refusal of several countries to accept petitioner).

³ *See also Ka v. Bureau of Immigr. & Custom Enf’t*, No. B-07-197, 2008 WL 11462867, at *8 (S.D. Tex. June 24, 2008) (ordering release of petitioner detained twelve months after Senegal “refuses to issue Ka a travel document because he d[id] not have proper identity documentation”); *Moreira v. Gonzales*, No. CIVA CV05-588 A, 2006 WL 3861972 (W.D. La. Nov. 2, 2006) (granting habeas relief to petitioner detained for three years because Cape Verde advised that it would not accept the petitioner for repatriation); *Khan v. Gonzales*, 481 F. Supp. 2d 638 (W.D. Tex. 2006).

- There is not removal agreement between the United States and a country. In this scenarios, courts have found that the lack of a normal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning government support a finding that there is no significant likelihood of removal. *See, e.g. Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of the petitioner's parents was not Ethiopian).⁴
- There is either no response from a country designated for removal or a significant delay in receiving a response. *See. e. g., Gonzales-Rondon v. Gillis*, 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to petitioner detained thirteen months where there was no response from Venezuelan officials).⁵
- ICE fails to take action to secure travel documents for a prolonged period. *See, e.g. Senior*, 401 F. Supp. 3d at 430-31 (granting habeas relief after ICE initially requested travel documents but where “there [wa]s no identification from the record that anyone ha[d] taken

⁴ *See also Gomez Barco*, 2020 WL 7393786, *Islam v. Kane*, No. CV-11-515-PHX-PGR (LOA), 2011 WL 4374226, at *3 (D. Ariz. Aug. 30, 2011) (ordering release of petitioner detained ten months where petitioner presented evidence that Bangladesh “is one of fifteen countries identified by ICE as least likely to issue travel documents”); *Carreno*, 2020 WL 8366735, *Simoza Rangel v. Gillis*, No. 5:19-cv-118-DCB-MTP, 2020 WL 7223258 (S.D. Miss. Sept. 2, 2020) (granting habeas relief to petitioner detained for sixteen months due to lack of diplomatic relation with Venezuela); *Abduelle v. Gonzales*, 422 F. Supp. 2d 774 (W.D. Tex. 2006) (concluding that the petitioner met the burden to show removal was not reasonably foreseeable after being detained for more than one year when an injunction restricted the government’s ability to remove the petitioner to Somalia).

⁵ *See also Sharif*, 2020 WL 7379211; *Aung v. Barr*, No. 20-CV-681-LJV, 2020 WL4581465 (W.D.N.Y. Aug. 10, 2020); *Edwards v. Barr*, No. 4:20cv350-WS-MAF, 2020 WL 6747737 (N.D. Fla. Oct. 14, 2020); *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319 (W.D.N.Y. July 14, 2020); *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560 (W.D. Tex. Nov. 3, 2020); *Singh v. Whitaker*, 362 F. Supp. 3d 93 (W.D.N.Y. 2019); *Butt v. Holder*, No. CA 08-0672-CG-C, 2009 WL 1035354 (S.D. Ala. Mar. 19, 2009) (holding that petitioner met his initial burden where he was held in ICE custody for more than ten months after the issuance of his removal order with no indication from the Pakistan Embassy that travel documents would be issued); *Lawrikov v. Kollus*, No. CV-08-1403-PHX-GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009); *Reid v. Crawford*, No. 06-02436 PHX-JWS (MEA), 2007 WL 1063413 (D. Ariz. Jan. 31, 2007); *Gui v. Ridge*, No. 3CV031965, 2004 WL 1920719 (M.D. Pa. Aug. 13, 2004); *Shefqet v. Ashcroft*, No. 02C 7737, 2003 WL 1964290 (N.D. Ill. Apr. 28, 2003).

any further action in the eight months since that time. . .to facilitate Senor’s receipt of the necessary travel documents”).⁶

22. As the length of detention grows, the period of time that would be considered the “reasonably foreseeable future” shrinks. *See e.g., Zadvydas*, 533 U.S. at 701 (stating that as the length of time in detention grows “what counts as the ‘reasonably foreseeable future’ conversely would be to shrink”); *Senor*, 401 F. Supp. 3d at 430 (“[T]he passage of time combined with ‘the’ government [being] no closer to . . . repatriating [a detainee] than they were once they first took him into custody’ [is] sufficient to meet that ‘initial burden.’”); *Lawrikow*, 2009 WL 2905549, at *12.
23. Petitioner’s continued detention is unlawful, and petitioner is unlikely to be removed in the reasonably foreseeable future. Therefore, Petitioner’s detention violates the statute and s/he is entitled to immediate release.
24. Petitioner’s detention also violates the Due Process Clause. 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 form of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See, id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.* Petitioner’s prolonged civil detention, which has lasted well beyond the end of the removal period, and

⁶ *See also Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012) (ordering petitioner’s release where the government failed “to provide any documentation of efforts. . . to effectuate removal . . . [for] nearly six months”).

which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner's detention violates Petitioner's right to due process.

CONCLUSION

25. In conclusion, Petitioner's indefinite detention violates the detention statute and is unconstitutional. Petitioner respectfully requests that this Court order Respondents to show cause why should not be granted "within three days unless for good cause additional time, not exceeding twenty days, is allowed," and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody.

Respectfully submitted.

Signature: 

Name: Basim Ali Ismail Beaur

A-Number: 

Detention Center: ICE Aurora Processing Center



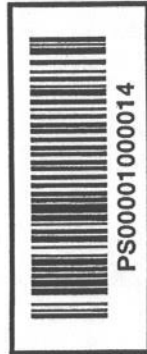
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