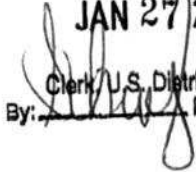


FILED

JAN 27 2026

Clerk U.S. District Court  
By:  Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

YONA FETWI SAMA

Pro Se, Petitioner

V.

26-3017-JWL

CRYSTAL CARTER, KRISTI NOEM,  
ICE DO OFFICER, TODD LYONS,  
and PAM BONDI

Respondents.

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

### I. INTRODUCTION

1. Petitioner, YONA FETWI SAMA, a legally admitted refugee and long-time resident of the United States, is currently detained by Immigration Enforcement ("ICE") pursuant to 8 U.S.C. § 1231(a)(6). Petitioner has been continuously detained since July 24, 2025, the date his removal became administratively final, for a period exceeding one hundred and eighty (180) days. Because there is no significant likelihood of his removal in foreseeable future, his continued mandatory detention violates his Fifth Amendment right to Due Process under the principles established by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus ordering his immediate release from physical custody under an appropriate Order of Supervision.

### II. JURISDICTION AND VENUE


2. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is held in custody in violation of the constitution and laws of the United States.

3. Federal district courts have jurisdiction to review habeas challenges by noncitizens to the lawfulness of their immigration detention, including post-removal-order detention under 8 U.S.C. § 1231(a).

4. This Court also has jurisdiction under 28 U.S.C. § 1331 and the declaratory Judgement Act, 28 U.S.C. §§ 2201-2202, because this Petition raises questions arising under the Immigration and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and the Fifth Amendment.

5. Venue is proper in the District of Kansas under 28 U.S.C. § 1391(e) and § 2241 because Petitioner is detained in this District and his immediate custodian, CRYSTAL CARTER is located here.

### III. PARTIES

6. Petitioner, YONA FETWI SAMA  is a native and citizen of Eritrea who entered the United States as a refugee in 2007, and is currently being detained by ICE, pursuant to a final Order of Removal.

7. CRYSTAL CARTER, Warden, FCI Leavenworth
8. (Name Not Known To The Petitioner), ICE Deportation Officer ("DO")
9. TODD LYONS, Acting Director, ICE
10. KRISTI NOEM, Secretary, Department of Homeland Security
11. PAM BONDI, Attorney General of the United States
12. All Government Respondents are sued in their official capacity

#### IV. FACTUAL BACKGROUND

13. Petitioner is from Eritrea and entered the United States with his family as a refugees after fleeing persecution in 2007.
14. Petitioner was detained by ICE custody on or about March 21, 2025.
15. A Immigration Judge ordered Petitioner removed to Eritrea on or about June 11, 2025.
16. Following the Honorable Judge's Order, Petitioner RESERVED his right to APPEAL, and later withdrew his appeal.
17. On or about July 24, 2025, his request to withdraw his appeal was GRANTED, therefore, the Order of Removal became administratively final on or about July 24, 2025.
18. Petitioner's "removal period," as defined by 8 U.S.C. § 1231(a)(i), began on or about July 24, 2025.
19. Petitioner has been detained by ICE for more than six months (180 days) of the post-order detention.
20. During this time, DHS/ICE has been unable to remove Petitioner to his home country, Eritrea.
21. Throughout his detention period, Petitioner has cooperated fully with every request ICE has presented him with, such as conducting interviews with the Eritrea embassy, providing all the necessary information, and completing forms.
22. ICE has provided little to no information about any concrete steps taken toward Petitioner's removal or any timeframe of removal.
23. As of writing of this Petition, ICE has not been able to secure a Travel Document, Laissez-passer or a passport from the Eritrean government.
24. Furthermore, DHS/ICE have not been able to show that the Eritrean government is willing to issue such documents in foreseeable future.
25. Without such document(s), Petitioner's removal will not be possible, due to the lack of layover countries' permission.
26. Petitioner believes ICE's efforts have reached a dead end, since there has not been any updates in regards to his removal in foreseeable future.
27. During his entire detention period, Petitioner was not provided with any interview opportunity with ICE to challenge his prolonged detention.
28. Petitioner does not pose a danger to community, and does not present a flight risk that cannot be addressed by conditions of supervised release, such as reporting.
29. Petitioner has close ties in the United States, including his Mother, Sister, Uncles, Aunties, Nephews, Nieces, Friends, etc., and is willing to comply with any conditions of release imposed by the Court or ICE.
30. Continued detention is causing Petitioner and his loved ones significant physical, emotional, and psychological harm, particularly given the indefinite and uncertain nature of the confinement.

#### V. LEGAL FRAMEWORK

31. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), post-removal-order detention is presumptively reasonable for six months.

32. After six months (180 days), if noncitizen provides "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the government must rebut that showing with evidence.

33. "Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas*, 533 U.S. at 699.

#### VI. CLAIMS FOR RELIEF

First Claim For Relief: Statutory Claim Under 8 U.S.C. § 1231(a) as interpreted by *Zadvydas v. Davis*

34. Petitioner realleges and incorporates by reference paragraphs 1-33.

35. Petitioner has been detained beyond six months after the entry of removal order became final.

36. Petitioner has presented good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, due to lack of response or refusal from Eritrean's government to issue Petitioner a travel document, *Laissez-passer* or a passport for a period of 180 days, post removal order.

37. Respondents have not provided evidence sufficient to rebut Petitioner's showing that removal is not significantly likely in the reasonably foreseeable future.

38. Nor have they explained the cause of such prolonged silence from the Eritrean's government regarding their requests.

39. Under *Zadvydas*, continued detention under these circumstances exceeds the authority granted by § 1231(a)(6) and is unlawful.

40. Accordingly, Petitioner's continued detention violates the INA and must cease.

Second Claim For Relief: The Fifth Amendment Violation

41. Petitioner realleges and incorporates by reference paragraphs 1-40.

42. The Fifth Amendment prohibits arbitrary and indefinite civil detention that is not reasonably related to a legitimate governmental purpose.

43. Any legitimate purpose that might initially justified Petitioner's detention such as facilitating removal have dissipated because removal is not significantly likely in the reasonably foreseeable future.

44. Continued detention is excessive and disproportionate in relation to any legitimate governmental interest and therefore violates substantive due process.

Third Claim For Relief: The Purpose Of Detention Effecting Removal No Longer Exists

45. Petitioner realleges and incorporates by reference paragraphs 1-44.

46. The statutory scheme contemplates detention only as long as necessary to effect removal. 8 U.S.C. § 1231(a)(i)(A) gives 90-day removal period; then § 1231(a)(6) gives discretionary further detention only if removal is reasonably foreseeable.

47. Once it becomes apparent that removal is no longer "reasonably foreseeable," continued detention becomes punitive in nature, which raises due-process concerns. *Zadvydas*, 533 U.S. at 690.

Fourth Claim For Relief: Constitutional And Human Rights Concerns

48. Petitioner realleges and incorporates by reference paragraphs 1-47.

49. Indefinite detention without release or bond hearing raises serious due-process and liberty interest issues. See e.g., Congress Research Service note: "indefinite detention raises 'serious constitutional-concerns'."

50. The burden on the government must increase when liberty is at stake.

Fifth Claim For Relief: No Meaningful Prospect Of Removal

51. Petitioner realleges and incorporates by reference paragraphs 1-50.
52. The detention period (more than 6 months) exceeds the presumptive "reasonably necessary" period identified in Zadvydas.
53. Eritrea has a well-documented history of refusing acceptance of its own nationals, particularly those returning involuntarily.
54. U.S. Courts have repeatedly recognized that removal is not foreseeable when the receiving country is unwilling or unpredictable.
55. "The absence of a repatriation agreement and a foreign government's consistent refusal to issue travel document weighs heavily against a finding of foreseeable removal." *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 334 (W.D.N.Y. 2018).
56. Eritrea's strained diplomatic relationship with the United States further undermines ICE's claim that removal is imminent.
77. Petitioner has been detained well beyond the six-month period recognized in *Zadvydas*.
77. The Burden has therefore shifted to the government to show that removal to Eritrea is significantly likely in the reasonable foreseeable future.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- A. Assume jurisdiction over this matter;
- B. Issue a Writ of Habeas Corpus ordering Respondents to show CAUSE;
- C. Order Petitioner immediately release from ICE custody under such reasonable conditions of supervision as the Court deems appropriate;
- D. Grant such other and further relief as the Court deems just and proper.


X. VERIFICATION

I YONA FETWI Sama, declare under penalty of perjury under the laws of the United State that I am the Petitioner in the above-entitled action; that I have read the forgoing Petition for Writ of Habeas Corpus and know the contends, therefore; and that the same is true and correct to the best of my knowledge, information, and belief.

*Yona Sama*

1,22,25

FCI Leavenworth

  
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