

JS 44 (Rev. 10/20) District of Colorado

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>Yaya, Hissein Seiro</p> <p>(b) County of Residence of First Listed Plaintiff <u>Arapahoe</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p> <p>Barbara Zalewski-Zaragoza, Esq. (See Attachment)</p>	<p>DEFENDANTS</p> <p>(See Attachment)</p> <p>County of Residence of First Listed Defendant <u>Arapahoe</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p> <p>(See Attachment)</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF</td> <td style="width:33%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> </tr> <tr> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)* Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395if) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input checked="" type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File


VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):* 28 U.S.C. § 2241 AP Docket

Brief description of cause:
Alien in ICE Custody Seeking Release from Prolonged Detention

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE: 01/27/2026 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY: RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

Attachment:

Attorney for Plaintiff:

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Kevin Traskos
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7 *Attorney for Petitioner*

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF COLORADO**

11 **HISSEIN SEIRO YAYA**)

12 A# )

13 *Plaintiff/Petitioner,*)

14 v.)

15 **JUAN BALTAZAR,**)
16 **In his official capacity as Warden of the**)
17 **Denver Contract Detention Facility owned**)
18 **and operated by GEO Group, Inc.;**)

19 **ROBERT HAGAN,**)
20 **In his official capacity as Field Office**)
21 **Director, Denver Field Office, U.S.**)
22 **Immigration & Customs Enforcement (ICE);**)

23 **KRISTI NOEM, Secretary, U.S. Department**)
24 **of Homeland Security (DHS);**)

25 **TODD LYONS, Acting Director of**)
26 **Immigration and Customs Enforcement**)
27 **(ICE);**)

28 **PAM BONDI, Attorney General, U.S.**)
Department of Justice (DOJ).)

Defendants/Respondents.

Case No.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO 28
U.S.C. § 2241 AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

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 July 24, 2025.....25

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I. INTRODUCTION

1. After an Immigration Judge (“IJ”) affirmed that Petitioner, Mr. Hissein Seiro Yaya (“Mr. Yaya”), had met his burden to prove he experienced mericless torture [REDACTED] (“withholding”). On July 24, 2025 an IJ at the Aurora Immigration Court granted Mr. Yaya withholding because he demonstrated his “life or freedom would be threatened” in his home country due to [REDACTED]. As a result, Respondents may not remove him to Chad, the country of his birth and citizenship. 8 U.S.C. § 1231(b)(3)(A). More than six months later, Mr. Yaya still languishes in the Denver Contract Detention Facility (Aurora) without any reason given as to his continued custody.

2. Thus, Mr. Hissein Seiro Yaya (“Mr. Yaya”), by an through his undersigned counsel, hereby files this petition for a writ of habeas corpus and an accompanying motion for a temporary restraining order (“TRO”), to prevent Respondents, the U.S. Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”), from continuing his unlawful detention. Petitioner requests immediate release from immigration detention, pursuant to 28 U.S.C. § 1331, 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 2241, the Immigration and Nationality Act (INA), and the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

3. 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. It is well established that “the Due Process Clause applies to all persons within the United States, including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). These protections afford Mr. Yaya both substantive and procedural due process rights with regard to his detention.

1 4. The *Zadvydas* Court held that “for the sake of uniform administration in the federal courts,”
2 following a final removal order, it is “presumptively reasonable” for the government to detain a
3 noncitizen for six months while the government works to remove that person from the United
4 States. *Id.* at 701. “After this 6-month period, once the noncitizen provides good reason to believe
5 that there is no significant likelihood of removal in the reasonably foreseeable future, the
6 Government must respond with evidence sufficient to rebut that showing.” *Id.*

8 5. Here, DHS is detaining Mr. Yaya *after* his removal proceedings have been completed and
9 he was *granted* withholding on July 24, 2025. To date, the DHS has provided no information as to
10 why he remains in custody and it appears there is “no significant likelihood” of his release “in the
11 reasonably foreseeable future.” *Id.* Thus, Mr. Yaya is being deprived of his liberty without
12 justification.

14 6. Consequently, Mr. Yaya petitions this Court to issue a writ of habeas corpus, ordering
15 Respondents to show cause within three days, providing their reasons, if any, why his detention is
16 lawful. 28 U.S.C. § 2243. He further requests that this Court grant his petition and order his
17 immediate release from custody. During the pendency of this habeas, Mr. Yaya asks this Court for
18 an order that prohibits Respondents from transferring him outside the District of Colorado and
19 enjoins Respondents from denying his mandatory statutory and regulatory due process protections.
20

21 **II. JURISDICTION AND VENUE**

23 7. This case arises under the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*,
24 the regulations implementing the INA.

25 8. The Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2. The Court
26 also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act);
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1 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. § 701 (the Administrative Procedure Act).

2 9. District courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by
3 noncitizens challenging the lawfulness or constitutionality of their civil immigration detention. *See*
4 *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17
5 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Indeed, “the essence of habeas corpus is an
6 attack by a person in custody upon the legality of that custody, and that the traditional function of
7 the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).
8 Furthermore, “[c]hallenges to immigration detention are properly brought directly through habeas.”
9 *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004)(citing *Zadvydas*, 533 U.S. at 687-88).
10

11
12 10. Pursuant to 28 U.S.C § 2243, the Court either must grant the instant petition for writ of
13 habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to
14 relief. If the Court issues an order to show cause, Respondents must file a response “within *three*
15 *days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. §
16 2243 (emphasis added).
17

18 11. Venue is proper under 28 U.S.C. § 1391 because Mr. Yaya is detained in the Denver
19 Contract Detention Facility in Aurora, Colorado, within the jurisdiction of this Court. *See* 28 U.S.C.
20 § 2241(d); *Braden v. 30th Judicial Circuit*, 410 U.S. 484, 493–94 (1973). Venue is also proper
21 because at least one of the Respondents is a resident of this District, and a substantial part of the
22 events giving rise to the claims in this action took place within this District. 28 U.S.C. § 1391.
23

24 **III. PARTIES**

25 12. Mr. Yaya is a twenty-four year old man who was  and
26 compelled to flee from his country in July 2024. He has been in the custody and under the direct
27
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1 control of Respondents and their agents for a total of approximately eighteen (18) months. He was
2 first detained during the pendency of his removal proceedings. After the IJ granted him withholding
3 of removal on July 24, 2025, his detention continued for six months.

4
5 13. Respondent Juan Baltazar is the warden of the Geo Group, LLC., Denver Contract
6 Detention Facility located in Aurora, Colorado. He is a legal custodian of Mr. Yaya. He is sued in
7 his official capacity.

8
9 14. Respondent Robert G. Hagan is the Field Office Director of the Denver Field Office of
10 Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO). In that
11 capacity, he is charged with overseeing all ICE detention centers in Colorado and Wyoming and has
12 the authority to make custody determinations regarding individuals detained in these facilities.

13 Respondent Hagan is a legal custodian of Mr. Yaya. Mr. Yaya brings this action against
14 Respondent Hagan in his official capacity.

15
16 15. Respondent Todd M. Lyons is the Acting Director of ICE. In that capacity, he has the
17 authority to make decisions related to detaining and removing noncitizens. As such, Respondent
18 Lyons is a legal custodian of Mr. Yaya. Mr. Yaya brings this action against Respondent Lyons in
19 his official capacity.

20
21 16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS).
22 DHS oversees ICE, which is responsible for the administration and enforcement of the immigration
23 laws and has supervisory responsibility for, and authority over, the detention and removal of non-
24 citizens throughout the United States. Respondent Noem is the ultimate legal custodian of Mr.
25 Yaya. Mr. Yaya brings this action against Respondent Noem in her official capacity.

26
27 17. Respondent Pamela Bondi is the Attorney General of the United States. As the Attorney
28

1 General, she is responsible for the actions of the Department of Justice (DOJ). The Executive Office
2 for Immigration Review (EOIR) is a component agency of the DOJ. Therefore, she oversees the
3 immigration court system, including all Immigration Judges, Immigration Courts, and the Board of
4 Immigration Appeals (BIA), and has authority over immigration detention. Respondent Bondi
5 routinely transacts business in the District of Colorado and has custodial authority over Mr. Yaya.
6 Mr. Yaya brings this action against Respondent Bondi in her official capacity.
7

8 **IV. EXHAUSTION OF REMEDIES**

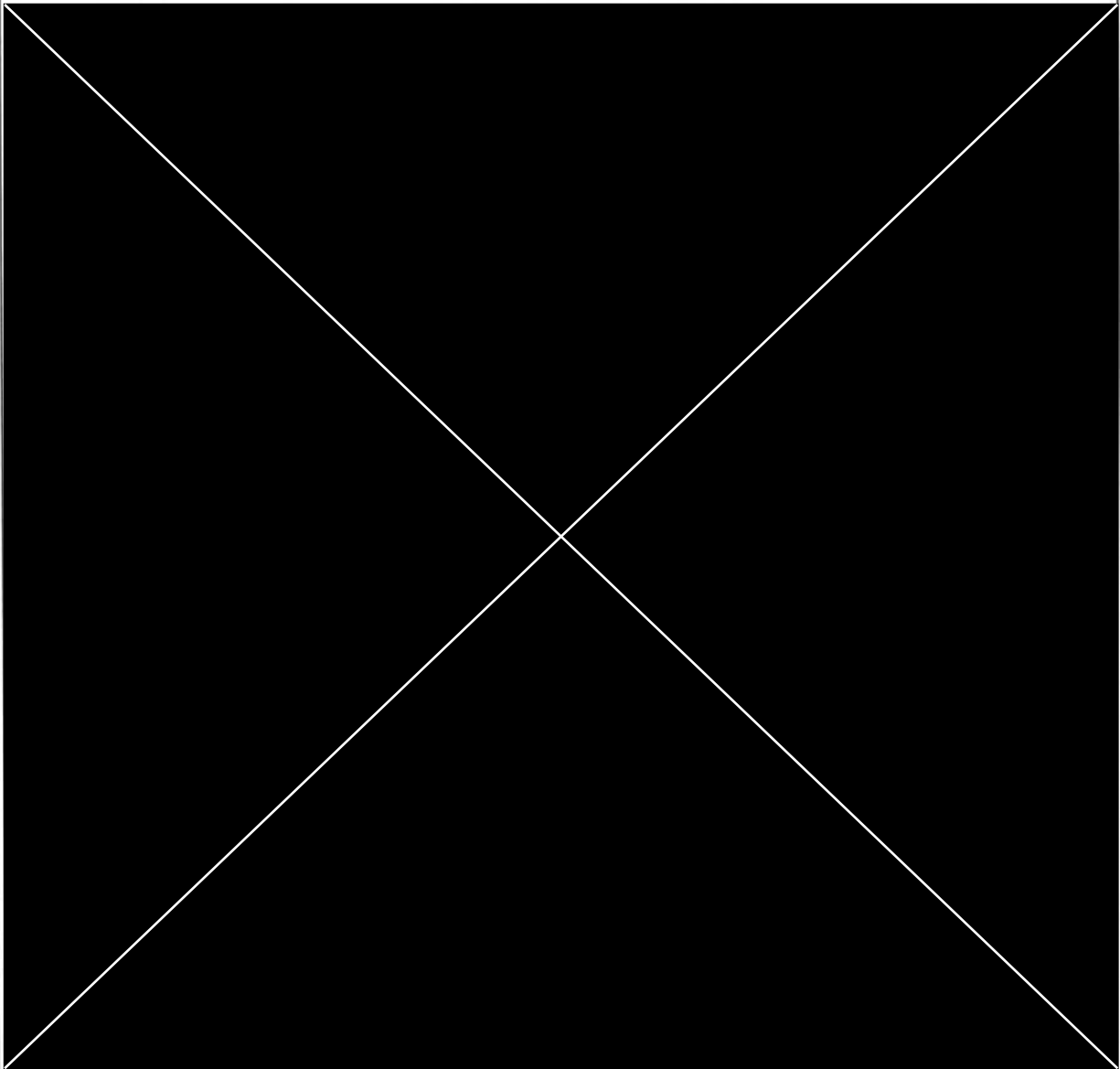
9 18. Habeas petitions are not subject to statutory exhaustion requirements. *See* 28 U.S.C. § 2241;
10 *see also Brandon v. 30th Judicial Cir. Ct. Of Ky.*, 410 U.S. 484 (1973). This Court has ruled that
11 “exhaustion is not required in the immigration context when it would be futile...or when ‘the
12 interests of the individual in retaining prompt access to a federal judicial form outweigh the interest
13 of the agency in protecting its own authority.’” *Quintana Casillas v. Sessions*, No. CV 17-01039-
14 DME-CBS, 2017 WL 3088346, at *9 (D. Colo. July 20, 2017) (citing *Son Vo v. Greene*, 109 F.
15 Supp. 2d 1281, 1282 (D. Colo. 2000)); *Gonzalez-Portillo v. U.S. Attorney Gen. Reno*, No. CIV.A.
16 00-Z-2080, 2000 WL 33191534, at *4 (D. Colo. Dec. 20, 2000)(quoting *McCarthy v. Madigan*, 503
17 U.S. 140, 144 (1992)).
18

19 19. However, even if exhaustion were required, it would be futile in this case because Mr.
20 Yaya’s claims cannot be meaningfully addressed or remedied through the administrative process.
21 Mr. Yaya is detained under 8 U.S.C. § 1231(a) and thus cannot request a custody redetermination
22 hearing before an IJ. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022). Moreover, neither an
23 IJ nor the Board of Immigration Appeals can rule on constitutional claims. *Matter of C--*, 20 I. & N.
24 Dec. 529, 532 (B.I.A. 1992) (“[I]t is settled that the immigration judge and this Board lack
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1 jurisdiction to rule upon the constitutionality of the Act and the regulations.”). Hence, there are no
2 further remedies to exhaust.

3 **V. STATEMENT OF FACTS**

4 20. Mr. Yaya, a national and citizen of Chad, has been in continuous immigration detention for
5 about eighteen (18) months. Born on [REDACTED]
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1 23. On July 10, 2024, Mr. Yaya entered the United States. He remained in detention throughout
2 his removal proceedings. On July 24, 2025, the IJ granted him withholding. Exhibit A, *Order of the*
3 *Immigration Judge*. The IJ found it “more likely than not” Mr. Yaya would be tortured if returned
4 to Chad. *See also* 8 C.F.R. § § 1208.16. Because both Mr. Yaya and the Department of Homeland
5 Security (DHS) waived appeal, his removal order became final when the IJ granted protection on
6 July 24, 2025. *See* 8 C.F.R. § 1241.1. However, Mr. Yaya remained in detention.
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8 24. Approximately four months (4) passed when Mr. Yaya received an ICE interview. Exhibit
9 B, *Notice to Alien of Interview for Review of Custody Status*. Mr. Yaya and his Counsel attended
10 this interview on December 9, 2025 and he answered a series of questions. Thereafter, neither Mr.
11 Yaya nor Counsel, upon information and belief as of the date of this filing, received any
12 information concerning his custody status. ICE remained silent as to the determination of custody
13 after this interview. Mr. Yaya is detained under 8 U.S.C. § 1231(a) in Respondents’ custody at the
14 Denver Contract Detention facility in Aurora, Colorado.
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17 25. Mr. Yaya has had a sponsor from the moment he entered the United States: his biological
18 uncle, Mr. Ahmed Abakar Gardi, who is a United States Citizen living in Fort Wayne, Indiana with
19 his family. Despite the trauma he experienced in Chad, Mr. Yaya has been separated from his
20 family and has languished in detention without notice or reason for his custody. If released, Mr.
21 Yaya would immediately be able to live with his uncle and be supported by his extended family.
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23 VI. LEGAL FRAMEWORK

24 A. Relief Under the Immigration and Nationality Act (“INA”): Withholding of 25 Removal.

26 26. Non-citizens in immigration removal proceedings may seek three main forms of relief based
27 on a fear of returning to their home country: asylum, withholding of removal, and relief under the
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1 Convention Against Torture (CAT). *See* 8 C.F.R. § 1208. Non-citizens may be ineligible for asylum
2 for several reasons. *See* 8 U.S.C. § 1158(a)(2). Relevant here, under President Biden’s
3 “Circumvention of Lawful Pathways” Final Rule, individuals who entered the United States
4 through the southern border without inspection between May 10, 2023 and May 10, 2025 were
5 presumptively ineligible for asylum unless they qualified for a few narrow exceptions. *See* 88
6 Federal Register 31314, (May 16, 2023); 8 C.F.R. § 208.33(a). However, asylum seekers could still
7 be eligible for withholding or CAT protection.
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9 27. When an IJ grants a non-citizen withholding, the IJ then issues a removal order and
10 simultaneously “withholds” that order with respect to the country or countries for which the non-
11 citizen demonstrated a sufficient risk of persecution or torture. *See Johnson v. Guzman Chavez*, 594
12 U.S. 532, 539 (2021). Once withholding is granted, either party has the right to appeal that decision
13 to the BIA within 30 days. *See* 8 C.F.R. § 1003.38(b). If both parties waive appeal or neither party
14 appeals within the 30-day period, the withholding grant and the accompanying removal order
15 become administratively final. 8 C.F.R. § 1241.1.
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18 28. When a non-citizen has a final withholding grant, they cannot be removed to the country or
19 countries for which they demonstrated a sufficient likelihood of persecution or torture. *See* 8 U.S.C.
20 § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized to remove non-citizens who
21 were granted withholding to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f),
22 the removal statute specifies restrictive criteria for identifying appropriate countries. Non-citizens
23 can be removed, for instance, to the country “of which the [non-citizen] is a citizen, subject, or
24 national,” the country “in which the [non-citizen] was born,” or the country “in which the [non-
25 citizen] resided” immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)–(E).
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1 Furthermore, even if a country “accepts” a noncitizen, ICE cannot remove a noncitizen to a country
2 where his life or freedom will be threatened because of his race, religion, nationality, membership
3 in a particular social group, or political opinion, or where it is more likely than not that the
4 noncitizen would be tortured. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 208.16.
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6 **B. Statutory and Constitutional Framework: Limits to Post-Final Order Detention.**

7 29. 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,”
8 which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of
9 removal becomes administratively final”; “[i]f the removal order is judicially reviewed and if a
10 court orders a stay of the removal of the [noncitizen], the date of the court’s final order”; or “[i]f the
11 [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen]
12 is released from detention or confinement.”
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14 30. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” for
15 noncitizens who have been ordered removed, the Supreme Court has recognized limits to such
16 continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the
17 Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period
18 reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S.
19 at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer
20 authorized by statute.” *Id.* at 699.
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23 31. In determining the reasonableness of detention, the Supreme Court recognized that, if a
24 noncitizen has been detained for longer than six months following the initiation of their removal
25 period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable;
26 otherwise, it violates that noncitizen’s due process right to liberty. *Id.* at 701. In this circumstance,
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1 if the noncitizen “provides good reason to believe that there is no significant likelihood of removal
2 in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut
3 that showing.” *Id.*

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5 32. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be
6 “adequate procedural protections” to ensure that the government’s asserted justification for a
7 noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in
8 avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).
9 Thus, after the six month period of detention elapses, continued detention violates both § 1231(a)(6)
10 and the Due Process Clause of the Fifth Amendment. *See Zadvydas*, 533 U.S. at 699-701.

11
12 33. Courts throughout the Tenth Circuit, including in the District of Colorado, have repeatedly
13 relied upon *Zadvydas* in ordering individuals’ release from immigration custody. *See e.g., Morales-*
14 *Fernandez v. INS*, 418 F.3d 1116, 1123 (10th Cir. 2005) (citing *Clark v. Martinez*, 125 S. Ct. 716,
15 727 (2005)), holding “[t]he Government having brought forward nothing to indicate that a
16 substantial likelihood of removal subsists despite the passage of six months...; and the District
17 Court in each case having determined that removal to Cuba is not reasonably foreseeable; the
18 petitions for habeas corpus should have been granted.”); *Nzayikorera v. Fabbricatore*, No. 21-cv-
19 02037, 2021 WL 9385836 (D. Colo. Sep. 9, 2021) (same); *Ahrach v. Baltazar*, No. 25-cv-03195,
20 2025 U.S. Dist. LEXIS 227919, *10 (D. Colo. Nov. 19, 2025) (granting habeas petition and
21 ordering release from post-order detention when the government has not offered evidence that there
22 is progress towards removal and acknowledging that *Zadvydas* courts have found that
23 unsubstantiated assertions that the government will pursue removal are insufficient to satisfy its
24 burden).
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1 **C. DHS Regulations: Notice, an Opportunity to be Heard, and the Reasonable**
2 **Foreseeability of Removal to a Third Country.**

3 34. DHS regulations provide that, by the end of the 90-day removal period, the local ICE field
4 office with jurisdiction over the noncitizen's detention must conduct a post-order custody review
5 (POCR) to determine whether the noncitizen should remain detained or be released pending
6 removal. *See* 8 C.F.R. § 241.4(c)(1), (k)(1)(i) ("Prior to the expiration of the removal period, the
7 district director . . . shall conduct a custody review . . .").
8

9 35. Three months *after* the lapse of the 90-day removal period, or six months after the issuance
10 of a final order, authority over custody determinations transfers to the Executive Associate
11 Commissioner to conduct an additional custody review on that date or "as soon thereafter as
12 practicable," referred to as the 180-day post-order custody review (POCR). *See* 8 C.F.R. §
13 241.4(k)(1)(ii) and (k)(2)(i)-(ii).
14

15 36. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established
16 "special review procedures" to determine whether detained noncitizens with final removal orders
17 are likely to be removed in the reasonably foreseeable future. *See Continued Detention of Aliens*
18 *Subject to Final Orders of Removal*, 66 Fed. Reg. 56,967 (Nov. 14, 2001). If ICE Headquarters
19 determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention
20 based on "special circumstances," it must justify the continued detention based on narrow grounds
21 such as national security or public health concerns, 8 C.F.R. § 241.14(b)-(d), or by demonstrating,
22 by clear and convincing evidence before an IJ, that the noncitizen is "specially dangerous." 8
23 C.F.R. § 241.14(f). As of this date, the Government has offered no such showing.
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26 37. It is true, under 8 U.S.C. § 1231, DHS has the authority to remove noncitizens granted
27 withholding to a third country. 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.17(b)(2). The term "third
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1 country” refers to one not previously designated by an IJ or DHS during the underlying removal
2 proceedings, which generally is the noncitizen’s country of nationality or citizenship. *D.V.D. v.*
3 *Dep’t of Homeland Sec.*, No. 25-cv-10676, 2025 WL 942948 (D. Mass. Mar. 28, 2025), ECF No.
4 Although the statutory framework for third country removal has long existed, DHS rarely pursued
5 this option in the past. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 537 (2021) (addressing the
6 contention that “DHS often does not remove [a noncitizen] to an alternative country if withholding
7 relief is granted” and “only 1.6% of [noncitizens] who were granted withholding of removal were
8 actually removed to an alternative country”). Under the current administration, however, third
9 country removals have become part of an aggressive detention and deportation agenda—especially
10 in cases of noncitizens who cannot be deported to their home countries because they have shown
11 they are likely to be persecuted or tortured there.¹ As a result, individuals who would have been
12 released in the past under 8 C.F.R. § 241.4(e), (f) are now being held in ICE custody for extended
13 periods so that DHS allegedly can assess the viability of removal to a third country, despite having
14 won on the merits of their fear-based claims.

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18 38. However, DHS cannot simply spirit noncitizens away. To justify such removals, DHS must
19 meet the narrow criteria outlined by 8 U.S.C § 1231(b)(2)(D)-(E). For example, DHS may pursue
20 third country removal to countries of which a noncitizen is a citizen, was born, or resided
21 immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)-(E). If it is impracticable,
22 inadvisable, or impossible to remove the noncitizen to any of the above countries, the noncitizen
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25 ¹ See Maria Sacchetti, et al, “ICE memo outlines plan to deport migrants to countries where they are not citizens,”
26 THE WASHINGTON POST (July 13, 2025), available at:
27 [https://www.washingtonpost.com/immigration/2025/07/12/immigrantsdeportations-](https://www.washingtonpost.com/immigration/2025/07/12/immigrantsdeportations-trump-ice-memo/)
28 [trump-ice-memo/](https://www.washingtonpost.com/immigration/2025/07/12/immigrantsdeportations-trump-ice-memo/); see also Ximena Bustillo, “The White House is deporting people to countries they’re not from.
Why?,” NATIONAL PUBLIC RADIO, (June 1, 2025), available at: [https://www.npr.org/2025/06/01/g-s1-69780/trump-](https://www.npr.org/2025/06/01/g-s1-69780/trump-deportations-south-sudan)
[deportations-south-sudan.](https://www.npr.org/2025/06/01/g-s1-69780/trump-deportations-south-sudan)

1 may be removed to another country whose government will accept the noncitizen into that country.
2 8 U.S.C. § 1231(b)(2)(E)(vii).

3 39. But further limitations exist on the statutory and regulatory authority to remove noncitizens
4 to a third country. 8 U.S.C. § 1231(b)(3). If ICE identifies an appropriate alternative country of
5 removal, the noncitizen *must have adequate notice and a meaningful opportunity to seek fear-based*
6 *relief* from removal to that country. DHS may not remove a noncitizen to a country in which they
7 will be persecuted or tortured. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16(c), 208.17(b)(2),
8 1208.16(c), 1208.17(b)(2). Pursuant to 8 U.S.C. § 1231(b)(3)(A), courts repeatedly have held that
9 individuals cannot be removed to a country that was not properly designated by an immigration
10 judge if they have a fear of persecution or torture in that country. *See Andriasian v. INS*, 180 F.3d
11 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408–09 (7th Cir. 1998); *El Himri v.*
12 *Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953
13 (11th Cir. 2005) (per curiam) (permitting designation of third country where individuals received
14 “ample notice and an opportunity to be heard”).

15 40. Adequate notice and a meaningful opportunity to present a fear-based claim prior to
16 deportation to a country where a person fears persecution or torture are fundamental due process
17 protections under the Fifth Amendment. *See Andriasian v.*, 180 F.3d at 1041 (finding that “last
18 minute” designation of alternative country without meaningful opportunity to apply for protection
19 “violate[s] a basic tenet of constitutional due process”); *Protsenko*, 149 F. App’x at 953 (permitting
20 designation of third country where individuals received “ample notice and an opportunity to be
21 heard.”); *Kossov*, 132 F.3d at 408; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019).
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VII. ARGUMENT

A. DHS Must Release Mr. Yaya Because He Has Been Detained for Over Six Months Since His Final Order With No Significant Likelihood of Release in the Reasonably Foreseeable Future.

41. When a noncitizen receives withholding and, thereby, is ordered removed from the United States, the removal “shall” occur within the next 90 days—the “removal period.” 8 U.S.C. § 1231(a)(1); *Morales-Fernandez v. Immigr. & Naturalization Serv.*, 418 F.3d 1116, 1123 (10th Cir. 2005). Once the removal period expires, the noncitizen “may” be detained, *id.* § 1231(a)(6) (emphasis added). However, constitutional demands limit a noncitizen’s “post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. However, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699. The period of six-months is detention is presumptively reasonable. *Id.* at 701. After this period, if the noncitizen demonstrates “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* “If the government fails to demonstrate a significant likelihood of removal in the reasonably foreseeable future, the noncitizen must be released.” *Ahrach v. Baltazar*, No. 25-cv-03195, 2025 WL 3227529, at *2 (D. Colo. Nov. 19, 2025)(citing *Zadvydas*, 533 U.S. at 701).

42. Mr. Yaya is not required to show that there is *no* significant likelihood of his removal in the reasonably foreseeable future. Instead, he must provide “good reason” to believe that his removal is not significantly likely in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. Indeed, the Petitioner’s burden may be met by, *inter alia*, showing “the existence of either institutional barriers to repatriation or obstacles particular to his removal.” *Dusabe v. Jones*, No. 24-cv-00464, 2024 WL

1 5465749, at *3 (W.D. Okla. Aug. 27, 2024). Furthermore, “*Zadvydas* rejected the proposition that
2 continued detention is permissible ‘as long as good faith efforts to effectuate . . . deportation
3 continue.’” *Ahrach*, 2025 WL 3227529, at *4 (quoting *Zadvydas*, 533 U.S. at 702). “Instead, the
4 government must actually make legitimate progress towards removal.” *Id.* (citing *Hassoun v.*
5 *Sessions*, No. 18-cv-00586, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019)).

7 43. Here, Mr. Yaya’s detention has exceeded the six-month period that *Zadvydas* recognized as
8 presumptively reasonable. Mr. Yaya was granted withholding on July 24, 2025. He received an
9 interview from ICE regarding his custody status on December 9, 2025. *Exhibit B*. However, after
10 the interview, conducted long past the 90-day period, he and his Counsel received no information or
11 notice as to a reason for his continued detention. The Government has not shown any reasonably
12 foreseeable removal in the future. Mr. Yaya is only a native and citizen of Chad. He has no other
13 country of citizenship or nationality and he never resided in any other country. Respondents have
14 not identified any specific third country willing to accept him, nor have they offered any concrete
15 information about negotiations, timelines, or conditions for any such transfer. Thus, to comport
16 with Mr. Yaya’s substantive due process rights, he respectfully asks this Court to order his
17 immediate release.

20 **B. Even if Mr. Yaya’s Removal Could be Effectuated, He Will Be Entitled to**
21 **Additional and Mandatory Procedural Protections.**

22 44. As of this writing, upon information and belief, no information has been given as to why
23 Mr. Yaya continues to be detained. But even if ICE were to identify a country that would accept
24 Petitioner, “any efforts to remove [him] to a third country would likely be delayed by proceedings
25 contesting his removal to the third country finally identified.” *Villanueva v. Tate*, 801 F. Supp. 3d
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1 689, 703, 2025 WL 2774610, at *10 (S.D. Tex. Sept. 26, 2025).

2 45. Indeed, “[n]o person shall be removed from the United States without opportunity, at some
3 time, to be heard.” *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (citations omitted). The Supreme Court has
4 long applied this principle to people facing removal. *See Yamataya v. Fisher*, 189 U.S. 86, 99-101
5 (1903)(holding that, even though what Congress provided as to exclusion was “due process of law,”
6 the statute must be interpreted to provide “notice and . . . an opportunity to be heard” as to whether
7 a person is in the United States “in violation of law”). ““It is well established that the Fifth
8 Amendment entitles [noncitizens] to due process of law’ in the context of removal
9 proceedings.” *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292,
10 306 (1993)). The Supreme Court has emphasized noncitizens are “entitled to notice and an
11 opportunity to challenge their removal.” *Id.* at 673.
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14 46. Here, Mr. Yaya has not been given any sort of notice of removal. He cannot return to Chad.
15 What’s more, if Respondents intended to remove him, they must provide Mr. Yaya with an
16 opportunity to present a fear claim as to any third country. The Supreme Court in *A.A.R.P. v. Trump*
17 held this means a person “must receive notice” that “they are subject to removal” (here, to a third
18 country), and such notice must be provided “within a reasonable time and in such a manner as will
19 allow the [] [noncitizen] to actually seek . . . relief.” 605 U.S. 91, 95 (2025)(per curiam)(quoting
20 *rump v. J.G.G.*, 604 U.S. 670, 673 (2025)). Mr. Yaya has received no such notice.
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23 47. When charged with the question of whether noncitizens are entitled to notice and a
24 meaningful opportunity to present a fear-based claim, circuit courts have resoundingly sided with
25 the noncitizen. For example, the Ninth Circuit found in an unpublished opinion that “last minute
26 orders of removal to a country may violate due process if an immigrant was not provided an
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1 opportunity to address his fear of persecution in that country.” *Najjar v. Lunch*, 630 Fed. App’x 724
2 (9th Cir. 2016). District courts across the country have found similarly. For instance, the Western
3 District of Washington held that “[a] noncitizen must be given sufficient notice of a country of
4 deportation that, given his capacities and circumstances, he would have a reasonable opportunity to
5 raise and pursue his claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009 (citing
6 *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976); *Kossov*, 132 F.3d at 408); *see, e.g., Santamaria*
7 *Orellana*, 2025 WL 2444087, at *8; *Mahdejian v. Bradford*, No. 9:25-cv-00191, 2025 WL
8 2269796, at *4 (E.D. Tex. July 3, 2025). Most recently, in the Southern District of Texas, the court
9 explicitly applied the *Mathews* factors in the context of a claim against unlawful removal to a third
10 country, finding that “the cost-benefit analysis weighs in [petitioner’s] favor.” *Sagastizado Sanchez*
11 *v. Noem, et al.*, No. 5:25-cv-00104, ECF No. 26 (S.D. TX Oct. 2, 2025).

14 48. Indeed, application of the *Mathews* factors also demonstrates Mr. Yaya requires sufficient
15 process. *See Mathews*, 424 U.S. at 335. Under *Mathews*, determining the specific dictates of due
16 process generally requires evaluation of “(1) the private interest that will be affected by the official
17 action, (2) a cost-benefit analysis of the risks of an erroneous deprivation versus the probable value
18 of additional safeguards, and (3) the Government’s interest, including the function involved and any
19 fiscal and administrative burdens associated with using different procedural safeguards.” *Dusenbery*
20 *v. United States*, 534 U.S. 161, 167 (2002) (citing *Mathews*, 424 U.S. at 335).

23 49. First, Mr. Yaya has a private interest at stake in his right to have his removal withheld or
24 deferred from a country where he is more likely than not to be persecuted or tortured. Although the
25 Government has not mentioned any third country to which Mr. Yaya could be removed, he would
26 still need notice and an opportunity to raise a fear claim. 8 U.S.C. § 1231(b)(3) (providing
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1 restrictions on removal to a country where a person's life or freedom would be threatened); 8
2 C.F.R. §§ 208.17–18; 1208.17–18. Given the significance of this interest, Mr. Yaya's private
3 interest (of fearing for his life in third countries as well as in Chad) weighs heavily in favor of a
4 robust due process requirement.
5

6 50. Second, there is a high risk of the government's erroneous deprivation of Mr. Yaya's rights
7 given they have not provided any notice six months after his final order of an intended third country
8 of removal or an opportunity to seek protection, a right to which he is entitled. *See* 8 U.S.C. §
9 1231(b)(3). Because he has not received any process in this regard, the importance of additional
10 procedural safeguards far outweighs the minimal administrative burden.
11

12 51. Finally, the public interest in preventing unlawful deportation of noncitizens outweighs the
13 government's interest in executing a removal order—particularly where protection has already been
14 afforded. The procedures Mr. Yaya requests would create a minimal delay in that process. Thus,
15 pursuant to *Mathews*, due process requires the procedural protections Mr. Yaya seeks prior to being
16 unlawfully removed.
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18 52. Thus, to comport with Mr. Yaya's procedural due process rights, never having been given
19 notice after six months time, Mr. Yaya respectfully requests this Court to order his immediate
20 release.
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22 IX. CLAIMS FOR RELIEF

23 COUNT I

24 Violation of 8 U.S.C. Section 1231(a)(6) and *Zadvydas* (Unlawful Post-Final Order Detention)

25 53. Mr. Yaya realleges and incorporates by reference the paragraphs above.

26 54. The government detains Mr. Yaya pursuant to 8 U.S.C. § 1231(a)(6), which governs the
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1 detention of noncitizens who have administratively final orders of removal.

2 55. In *Zadvydas*, the Supreme Court interpreted section 1231(a)(6) to contain an implicit
3 timeframe, authorizing detention only for “a period reasonably necessary to bring about the
4 [noncitizen’s] removal from the United States.” 533 U.S. at 589. The Court established a six-month
5 period of post-final order detention, after which the government must provide evidence that
6 removal is likely in the reasonably foreseeable future. *Id.* at 701. In the six months since Mr. Yaya’s
7 removal order became administratively final, the government has failed to identify a reason for his
8 detention.
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10 56. Mr. Yaya cannot be deported to Chad because he has a final grant of withholding of
11 removal to Chad. Because Mr. Yaya cannot be removed from the United States in the “reasonably
12 foreseeable future,” his continued detention violates 8 U.S.C. § 1231(1). *See id.* at 701.
13

14 **COUNT II**
15 **Violation of the Substantive Due Process Clause of the Fifth Amendment**
16 **of the U.S. Constitution**
17 **(Unlawful Post-Final Order Detention)**

18 57. Mr. Yaya realleges and incorporates by reference the paragraphs above.

19 58. The Fifth Amendment provides that “No person shall . . . be deprived of life, liberty, or
20 property[] without due process of law.” U.S. Const. amend. V. Moreover, “The Due Process Clause
21 applies to all ‘persons’ within the United States, including [noncitizens], whether their presence
22 here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

23 59. The Supreme Court has established that noncitizens in post-final order detention for more
24 than six months must be released from custody if there is no likelihood that they will be removed in
25 the reasonably foreseeable future. *Id.* at 699–700.
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1 60. More than six months have elapsed since Mr. Yaya was granted withholding, yet he remains
2 confined without any further court proceedings, appellate process, or indication of any plan for
3 removal. Under these circumstances, Mr. Yaya's continued detention is untethered to any legal
4 basis. *Id.* at 690. At this stage, DHS's refusal to release Mr. Yaya is "the exercise of power without
5 any reasonable justification" and a violation of due process principles. *County of Sacramento v.*
6 *Lewis*, 523 U.S. 833, 845 (1998).

8 61. Mr. Yaya has had a final order of removal for six months with only one custody review in
9 December 2024 and no further information about his prolonged custody. Hence, there is "good
10 reason to believe that there is no significant likelihood of removal in the reasonably foreseeable
11 future," and the government cannot justify his continued detention. *Zadvydas*, 533 U.S. at 701.

13 **COUNT III**
14 **Violation of the Procedural Due Process Clause of the Fifth Amendment of**
15 **the U.S. Constitution**
(Unlawful Post-Final Order Detention)

16 62. Mr. Yaya realleges and incorporates by reference the paragraphs above.

17 63. The government's detention of Mr. Yaya is unlawful and in violation of the Fifth
18 Amendment to the U.S. Constitution because it violates his procedural due process right to notice
19 and a meaningful opportunity to challenge the reason for his continued detention, including but not
20 limited to a custody review with notice as to why he remained detained, and any potential removal
21 to a third country.
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23 64. The *Mathews* factors lead to the same result where Mr. Yaya requires sufficient process,
24 which he has not received. *Mathews*, 424 U.S. at 335.

26 65. Accordingly, Mr. Yaya respectfully requests this Court order Respondents to immediately
27 release him.
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X. PRAYER FOR RELIEF

WHEREFORE Mr. Yaya respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Enjoin Respondents from transferring Mr. Yaya outside of the jurisdiction of the District of Colorado pending the resolution of this case;
- c. Pursuant to 28 U.S.C. § 2243, issue an Order to Show Cause or Order to Answer ordering Respondents to show cause within three days of why the writ should not be granted;
- d. Declare that Respondents' continued detention of Mr. Yaya violates the INA, 8 U.S.C. § 1231(a)(6), and the Due Process Clause of the Fifth Amendment of the U.S. Constitution;
- e. Grant a writ of habeas corpus directing Respondents to immediately release Mr. Yaya; and
- f. Grant any further relief as this Court deems just and proper.

Date: January 27, 2026

Respectfully submitted,



Barbara Zalewski-Zaragoza
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Attorney for Petitioner

EXHIBIT A

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
AURORA IMMIGRATION COURT

In The Matter Of:) In Removal Proceedings
) Detained
)
YAYA, HISSEIN SEIRO) File No. A [REDACTED]
)
)
Respondent.) July 24, 2025
)

CHARGES: Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (“Act” or “INA”), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211 (a) of the Act.

Section 212(a)(6)(A)(i) of the Act, as amended, as an alien present in the United States without being admitted or paroled, or who has arrived in the United States at any time or place other than as designated by the Attorney General

APPLICATIONS: Asylum under INA § 208; Restriction on Removal under INA § 241(b)(3); Relief under the United Nations Convention Against Torture (“CAT”), 8 C.F.R. §§ 1208.16(c), 1208.17, 1208.18.

ON BEHALF OF RESPONDENT:
Barbara Zalewski-Zaragoza, Esquire
Law Office of Barbara Zalewski-Zaragoza
438 Camino Del Rio South, Suite 210
San Diego, CA 92108

ON BEHALF OF THE DHS:
Elizaveta Ivanova, Assist. Chief Counsel
U.S. Department of Homeland Security
12445 East Caley Avenue
Centennial, CO 80111

WRITTEN DECISION AND ORDERS OF THE IMMIGRATION JUDGE

I. Procedural History

Hissein Seiro Yaya (“Respondent”) is a native and a citizen of the Republic of Chad (“Chad”). On July 10, 2024, Respondent entered the United States at an unknown location. He was not then admitted or paroled after inspection by an Immigration Officer. At the time of application for admission, he did not possess a valid entry document required by the Act. On October 2, 2024, the

Department of Homeland Security (“DHS”) commenced removal proceedings against him by filing a Form I-862, Notice to Appear (“NTA”), with the Aurora Immigration Court (“the Court”), charging him with removability under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Act. Exh. 1.

On January 13, 2025, Respondent submitted written pleadings admitting the factual allegations in the NTA and conceding the charges of inadmissibility. Based on Respondent’s written pleadings, the Court sustains the inadmissibility charges. The Court directs Chad as the country of removal should removal become necessary.

As relief from removal, on January 8, 2025, Respondent filed a Form I-589, Application for Asylum and Withholding of Removal (“I-589”) and requested protection under the regulations implementing the CAT. Exh. 2. For the following reasons, the Court denies Respondent’s application for asylum, grants restriction on removal, and does not reach eligibility for CAT protection. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (“As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”); *Matter of J-G-*, 26 I&N Dec. 161, 170 (BIA 2013) (recognizing that IJs are not required to make findings on issues that are unnecessary to result reached).

II. Evidentiary Record

The Record of Proceeding (“Record”) consists of testimony provided by Respondent on July 18, 2025. No additional witnesses were called. The documentary evidence in this case consists of the following four exhibits, marked and admitted without objection:

Exhibit 1: Respondent’s NTA, filed October 2, 2024;

Exhibit 2: Respondent’s I-589, filed January 8, 2025;

Exhibit 3: Respondent’s Evidence, filed May 1, 2025;

Exhibit 4: Respondent’s Evidence Part 2, filed June 8, 2025.

The Court has thoroughly considered all evidence admitted into the Record, regardless of whether

IT IS HEREBY ORDERED that Respondents application for restriction on removal pursuant to INA § 241(b)(3) is GRANTED. His request for protection under the Convention Against Torture is held in abeyance.

APPEAL RIGHTS: Both parties have the right to appeal the decision in this case. Any appeal is due to the Board of Immigration Appeals on or before thirty (30) calendar days from the date of service of this decision.

Nina Carbone

Nina Carbone
Immigration Judge

EXHIBIT B

Office of Enforcement and Removal Operations
Field Office
U.S. Department of Homeland Security
Field Office Address
City, State, Zip Code



U.S. Immigration
and Customs
Enforcement

YAYA, Hissein Seiro
Denver Contract Detention Facility (GEO)



Notice to Alien of Interview for Review of Custody Status

U.S. Immigration and Customs Enforcement (ICE) periodically reviews the custody status of detained aliens who have final orders of removal, deportation, or exclusion. You are required to cooperate with ICE in effecting your removal from the United States.

In determining whether you may be recommended for release, ICE will consider whether there is a significant likelihood of your removal in the reasonably foreseeable future, and whether you pose a danger to the community or pose a risk of flight.

You will be interviewed for this purpose and you are scheduled to appear for this interview on:

12/09/2025 at: 0900 , at

to discuss whether or not you will be recommended for release. If you wish for additional time to prepare for the interview, you may request that the interview date be postponed. If the hearing is rescheduled at your request, you waive the right to have the interview prior to the date that jurisdiction over your custody status shifts to the Enforcement and Removal Operations Removal Division under 8 C.F.R. § 241.4(c)(2).

In determining whether you may be released, ICE may consider, but is not limited to considering the following:

1. Whether your removal is significantly likely in the reasonably foreseeable future;
2. Criminal convictions and criminal conduct;
3. Other criminal history and immigration history;
4. Sentence(s) imposed and time actually served;
5. History of escapes, failures to appear for judicial or other proceedings, and other defaults;
6. Probation history;
7. Disciplinary problems while incarcerated;
8. Evidence of rehabilitative effort or recidivism;
9. Equities in the United States;
10. Cooperation in obtaining your travel document; and
11. Any available mental health reports.

You are required to complete the information on the following page. You will be notified of the decision in your case when the custody review has been concluded.

YAYA, Hissein Seiro

A 221-151-362

I do do not want a personal interview.

If you want an interview, please check the appropriate box(es) below:

Check this box if you need an interpreter for your interview.

Language/Dialect: _____

I will be assisted at this interview by a representative of my own choosing.

Name: _____

I understand I must notify this person of the time and place of my interview. The representative must be at least 18 years of age.

You may submit any additional documentation you wish to be considered in support of your release at the time of your interview. English translations must be provided pursuant to 8 C.F.R. § 103.2(b)(3).

Signature of Respondent: _____

PROOF OF SERVICE

(Officer to complete both (a) and (b) below.)

(a) I _____, _____,
Name of ICE Officer Title
certify that I served _____ with a copy of
Name of detainee
this document at _____ on _____, at _____.
Institution Date Time

(b) I certify that I served the custodian _____,
Name of Official
_____, at _____, on
Title Institution
_____ with a copy of this document.
Date

- cc: Attorney of Record or Designated Representative
- cc: A-File

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VERIFICATION

I, Barbara Zalewski-Zaragoza, declare as follows: I am an attorney admitted to practice law before this Court and in the State of California. I am authorized by Mr. Hissein Seiro Yaya to file this Petition for Writ of Habeas Corpus on his behalf. Because many of the allegations of this Petition require a legal knowledge not possessed by Mr. Yaya, I am making this verification on his behalf and with his permission. I have read the foregoing Petition for Writ of habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief. I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 23, 2025.



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Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Barbara Zalewski-Zaragoza, hereby certify that on January 23, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Barbara Zalewski-Zaragoza, hereby certify that I have mailed through USPS a hard copy of the document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail on January 23, 2026.

Kevin Traskos
Chief, Civil Division
U.S. Attorney's Office
District of Colorado
1801 California Street, St. 1600
Denver, CO 80202

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Kristi Noem and Todd Lyons, DHS/ICE, c/o:
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U.S. Department of Homeland Security
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Washington, DC 20528-0485

Juan Baltazar
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Robert Hagan
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