


UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

Dalton Miller (  )	)	
<i>Petitioner,</i>	)	
v.	)	Civil Action No. _____
Kristi Noem, <i>Secretary of Homeland Security,</i>	)	
Todd Lyons, <i>Acting Director, U.S. Immigration</i>	)	
<i>and Customs Enforcement,</i>	)	
Pamela Bondi, <i>Attorney General,</i>	)	
Vernon Liggins, <i>Field Office Director,</i>	)	
<i>Baltimore Field Office, Immigration</i>	)	
<i>and Customs Enforcement,</i>	)	
<i>Respondents.</i>	)	

**PETITION FOR WRIT OF HABEAS CORPUS**

1. In October 2023, Petitioner Dalton Miller won an order from an immigration judge granting him a form of relief called withholding of removal, which prohibits Respondents from removing him to his native Jamaica. Should Respondents wish to remove Petitioner to Jamaica, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of withholding of removal. Should Respondents wish to remove Petitioner to any other country, they would first need to provide him with notice and the opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. But Respondents have arrested Petitioner without warning and without observance of procedures required by regulation, and are detaining him for no reason; they now appear to be seeking to deport Petitioner without observance of any legal procedures

whatsoever, ripping him away from his family. Such conduct cries out for immediate judicial relief.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

3. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

4. Venue lies in this District because Petitioner is currently detained in ICE's Baltimore Hold Room in Baltimore, Md.; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

### **THE PARTIES**

5. Petitioner Dalton Miller is a native and citizen of Jamaica, and holds no claim to legal immigration status in any other country. He is currently detained by Respondents in Baltimore, Md.

6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

7. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

9. Respondent Vernon Liggins, the Field Office Director of the U.S. Immigration and Customs Enforcement (“ICE”) Baltimore Field Office, is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioner, including detentions, enforcement, and removal operations. He is the immediate legal and physical custodian of Petitioner for purposes of a federal habeas petition.

10. All government Respondents are sued in their official capacities.

#### **LEGAL BACKGROUND**

11. Withholding of removal under 8 U.S.C. § 1231(b)(3) prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. See 8 C.F.R. § 1208.16(b). This form of relief is mandatory if the applicant meets the standard and is distinct from asylum in that it does not lead to permanent residency.

12. To qualify for withholding of removal, the noncitizen bears the burden of proving that it is more likely than not that they would face persecution if returned to their country of origin. The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. See 8 C.F.R. § 1208.24(f).

13. If a noncitizen is granted withholding of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

14. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution. 8 C.F.R. § 1208.24(f). Only after termination may removal proceed.

15. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received “ample notice and an opportunity to be heard”).

16. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. §1231(a)(1)(A).

17. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject

to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).

18. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 (“But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”)

19. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

20. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689.

21. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months’ detention could be deemed a

“presumptively reasonable period of detention,” after which the burden shifts to the government to justify continued detention if the noncitizen provides a “good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

22. Where a petitioner has provided “good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

23. The regulation 8 C.F.R. § 241.4 addresses continued detention beyond the period of removal. Subsection 241.4(*I*)(1)7 provides that “[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release or parole.”

24. The regulation allows re-detention, inter alia, when “[i]t is appropriate to enforce a removal order.” 8 C.F.R. § 241.4(*I*)(2)(iii).

25. Finally, the regulation promises: “The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” 8 C.F.R. § 241.4(*I*)(1).

26. Specific officials are authorized to revoke an order of supervision, namely the Executive Associate Commissioner. See 8 C.F.R. § 241.4(*I*)(2). However, that authority can be delegated to the district director when “revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner.” *Id.*

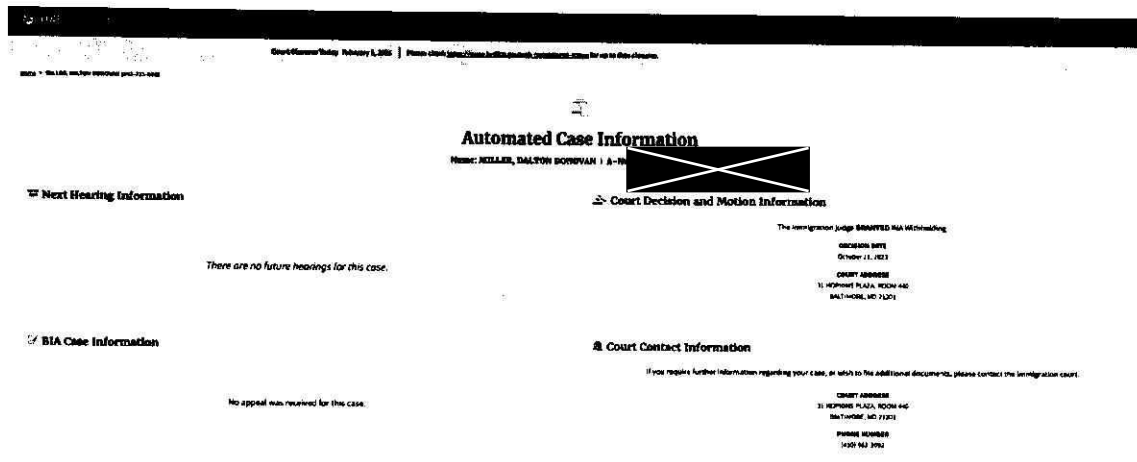
#### FACTS

27. Petitioner Dalton Miller was born in 1980. He is a citizen of Jamaica and no other country.

28. On October 11, 2023, an immigration judge ordered that Petitioner be removed from the United States. The immigration judge also granted Petitioner withholding of removal

pursuant to 8 U.S.C. § 1231(b)(3), after finding that he had established it was more likely than not that he would be persecuted in Jamaica on account of a protected ground, to wit, his sexual orientation. *See* Ex. 1 hereto.

29. No appeal was taken, and the Immigration Judge's order became final 30 days thereafter, on November 10, 2023. To date, Respondents have not taken any steps to reopen or rescind the grant of relief, as is evidenced by this screenshot of the Executive Office for Immigration Review, Automated Case Information website:



30. Upon information and belief, Petitioner was thereafter placed on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3).

31. Since then, Petitioner has maintained stable housing and employment, supported by valid employment authorization. Petitioner was last issued a "category A10" Employment Authorization Document (EAD) on April 18, 2024. *See* Ex. B. Each time the agency issued Petitioner an EAD, it necessarily first determined that he "cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien[.]" 8 U.S.C. § 1231(a)(7)(A).

32. Petitioner is the father of a seven-year old U.S.-citizen daughter who suffers from

epilepsy and seizures as well as chronic lung disease and asthma, and who relies on her father.

33. Petitioner has no criminal record subsequent to the issuance of his grant of withholding of removal.

34. On February 3, 2026, Petitioner appeared for a scheduled check-in with ICE at the Baltimore Field Office. Without any explanation for the legal or factual basis of his detention, Petitioner was detained by ICE. Petitioner was only told that ICE would soon start looking for a third country that was willing to accept him for removal.

35. Prior to his unlawful detention, Petitioner was dutifully attending scheduled check-ins with ICE pursuant to his release on supervision. He now remains in detention in the Baltimore Hold Room as of the time of filing this habeas corpus petition.

36. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

37. Petitioner has the right, and intends to exercise the right, to claim a fear of removal to any third country in which he fears persecution on account of his sexual orientation, and to seek withholding of removal as to any such country.

38. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CLAIM FOR RELIEF:  
Violation of 8 U.S.C. § 1231(a)(6)**

39. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-38.

40. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's statutory removal period expired 90 days after November 10, 2023. The *Zadvydas* presumptively reasonable period for continued removal efforts expired

six months after November 10, 2023.

41. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

**SECOND CLAIM FOR RELIEF:  
Due Process/Detention**

42. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-38.

43. Petitioner's detention during the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have no factual basis to believe that such third-country removal will ever become practicable and legally permissible.

44. Respondent continues to detain Petitioner without evidence that they will be able to remove him imminently, to Jamaica or to any other country.

45. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

**THIRD CLAIM FOR RELIEF:  
Violation of due process/third country removal**

46. Petitioner incorporates the foregoing paragraphs 1-38 by reference.

47. Petitioner has a procedural due process right not to be removed to any country to which he expresses a fear of removal, without an immigration judge first reviewing his fear claim. Respondents' procedures for third-country removal violate due process because they do not allow Petitioner the right to go before an immigration judge for review of his fear-of-removal claim to any particular third country.

**FOURTH CLAIM FOR RELIEF:  
Violation of 8 C.F.R. § 241.4(l)**

48. Petitioner incorporates the foregoing paragraphs 1-38 by reference.

49. As set forth above, Respondents' actions in cancelling Petitioner's release on supervision and re-arresting Petitioner without any explanation of the legal or factual basis for re-detention and without an opportunity to respond to that reasoning violated 8 C.F.R. § 241.4(l), a regulation designed to protect the due process rights of noncitizens like Petitioner.

50. In addition, upon information and belief, Petitioner's supervised release was revoked by an individual who lacked authority to do so, without observance of proper and required formalities and without the requisite findings being made, in violation of 8 C.F.R. § 241.4(l)(2).

51. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

52. In arresting and re-detaining Petitioner, Respondents violated important substantive and procedural rules designed to protect his due process rights, and the writ of habeas corpus should issue.

**REQUEST FOR RELIEF**

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;
- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to Jamaica, unless and until his order of Withholding of Removal is terminated, including all appeals;

- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal or protection under the Convention Against Torture as to that country, including immigration judge review of any denied fear interview;
- d) Setting aside the revocation of Petitioner's supervised release, and ordering him released on an Order of Supervision;
- e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody;
- f) Granting Petitioner his costs of suit; and
- g) Granting such other relief at law and in equity as justice may require.

**Certification Pursuant to Local Standing Order 2025-01**

I, the undersigned, hereby certify pursuant to Fed. R. Civ. P. 11, as follows: (1) I understand the Petitioner to be presently detained in Maryland, because Petitioner spoke with his immigration attorney by telephone from the Baltimore Hold Room on the morning of February 5, 2026; (2) emergency relief is necessary, because Petitioner has a final removal order; and (3) this Court has subject-matter jurisdiction over the Petitioner pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

*[Signature block on following page]*

Respectfully submitted,

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