

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

JOHN TENIA A# 

Civil Action No. []

JOHN TENIA,

V.

CHRIS CARR
ATTORNEY GENERAL



KRISTI NOEM
DEPARTMENT OF HOMELAND SECURITY, ET.AL

SEAN ERVIN
U.S ICE FIELD OFFICE DIRECTOR

ATLANTA FIELD OFFICE; AND TONY NORMAND WARDEN OF
IMMIGRATION DETENTION FACILITY

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

Petitioner, John Tenia, Hereby Petitions This Court For A Writ Of Habeas Corpus To Remedy Petitioner's Unlawful Detention By Respondents. In Support Of This Petition And Complaint For Injunctive Relief, Petitioner Alleges As Follows:

CUSTODY

1. Petitioner Is In The Physical Custody Of Respondents And U.S Immigration And Custody Enforcement ("ICE"). Petitioner Is Detained At The Folkston ICE Processing Center in Folkston Georgia. A Private Facility, ICE Has Contracted With Folkston ICE Processing Center to House Immigration Detainees Such As Petitioner. Petitioner Is Under The Direct Control Of Respondents And Their Agents.

JURISDICTION

2. This Action Arises Under The Constitution Of The United States, And The Immigration And Nationality Act ("INA"), 8 U.S.C. § 1101 est seq., As Amended By The Illegal Immigration Reform And Immigration Responsibility Act Of 1996 ("IIRIA"), Pub. L. No. 104-208, 110 Stat. 1570, And The Administrative Procedure Act ("APA"), 5 U.S.C. § 701 est seq.
3. This Court Has Jurisdiction Under 28 U.S.C. § 2241; art. I § 9, cl.2 of the United States Constitution ("Suspension Clause"); And 28 U.S.C. § 1331, As Petitioner Is Presently In Custody Under Color Of The Authority Of The United States, And Such Custody Is In Violation Of The Constitution, Laws, Or Treaties Of The United States. This Court May Grant Relief Pursuant To 28 U.S.C. § 2241, 5 U.S.C. § 702 And The All Writs Act, 28 U.S.C. § 1651.
4. Petitioner Has Exhausted Any And All Administrative Remedies To The Extent Required By Law

VENUE

5. Pursuant To Braden v. 30th Judicial Circuit Court Of Kentucky, 410 U.S. 484, 493-500 (1973), Venue Lies In The United States District Court For The Southern District Of Georgia, The Judicial District In Which Petitioner Resides.

PARTIES

6. Petitioner Is A Native And Citizen Of Trinidad And Tobago. Petitioner Was First Taken Into ICE Custody On 10/17/25, And Has Remained In ICE Custody Continuously Since That Date. Petitioner Was Allegedly Ordered Removed On February 6th 2024. Deportation Order Was Not Finalized And Petitioner's Case Was Remanded To The Federal Immigration Court At 970 Broad St In Newark New Jersey, On February 14th 2028 Court Room 1200 At 1pm.
7. Respondent Chris Carr Is The Attorney General Of Georgia And Is Responsible For The Implementation And Enforcement Of The Immigration And Naturalization Act (INA) Here In Georgia. As Such, Mr Carr Has Ultimate Custodial Authority Over

Petitioner.

8. Respondent Kristi Noem IS The Secretary Of The Department Of Homeland Security. She Is Responsible For Teh Administration Of ICE And The Implementation And Enforcement Of The INA. As Such, Mrs Noem Is Legal Custodian Of Petitioner.
9. Respondent Sean Ervin Is The ICE Field Office Director Of The Atlanta Field Office Of Ice And Is Petitioner's Immediate Custodian. See Vasquez V. Reno, 233 F.d 688, 690 (1st Cir 2000), Cert Denied, 122 S. Ct. 43 (2001).
10. Respondent Warden Of Folkston Ice Processing Facility Where Petitioner Is Currently Detained Under The Authority Of Ice, Alternatively May Be Considered To Be Petitioner's Immediate Custodian.

FACTUAL ALLEGATIONS

11. Petitioner, John Tenia, Is A Native Citizen Of Trinidad And Tobago. Petitioner Has Been In Ice Custody Since 10/17/25. An Immigration Judge Ordered Petitioner Removed On February 6th 2024. Deportation Order Was Not Finalized And Petitioner's Case Was Remanded To The Federal Immigration Court At 970 Broad St In Newark New Jersey, On February 14th 2028 Court Room 1200 At 1pm By The BIA.
12. Petitioner Entered The United States On December 19th 2003 At JFK International Airport On A B2 Visa With Adopted Father And Sisters At The Age Of 6. Prior To Arrival Petitioner Lived In Trinidad And Tobago For 6yrs Total And Has Never Traveled To Or Live Anywhere Else Outside The United States Since. Petitioner Has An Older Biological Sister Who Became A Lawful Permanent Resident Under The Dream Act Who Is Now A Citizen And Is Eligible To Petition An I-130 For Him.
13. Petitioner Does Not Contest The Fact That He Has Had Numerous Arrests For Petty Offenses And 2 Convictions On His Record. One For 4th Deg Criminal Trespassing, A Misdemeanor in The State Of New Jersey Where He Was Charged, Another For 4th deg Possession Of A Weapon Specified To Be A Scissor.
14. Ice First Took Petitioner Into Custody After Being Released From The County Jail In Hudson County New Jersey. Petitioner Was Released On 4th Degree Possession Of A Weapon Charges, ICE Officers In Plain Clothing Subsequently Waiting In The Lobby To Take Him Into Custody At The Time Of Discharge.
15. To Date, However, Ice Has Been Unable To Remove Petitioner To Trinidad And Tobago Or Any Other Country. Petitioner Has Been Compliant With ICE In Removal Proceedings Providing What Is Available To Him Due To Detention. He Has Spoken With The Trinidad Consulate In Miami Who Have Not Received Any Documents From ICE Requesting Any Travel Documentation For Petitioner.
16. As Aforementioned Petitioner Has Been Compliant With ICE In Removal Proceedings Providing What Is Available To Him Due To Detention. He Has Spoken With The Trinidad Consulate In Miami Who Have Not Received Any Documents

From ICE Requesting Any Travel Documentation For Petitioner. He Has Also Inquired Into Voluntary Departure Due To Harsh Conditions And Hardship At His Current Detention Facility Causing Mental And Physical Distress, He Was Advised He Is Not Eligible. Ice Is In Possession Of Information About Where He Is From, When And Where He Was Born, Photographs, Fingerprints, And Other Identifying Documentation.

17. Petitioner's Custody Status Was First Reviewed On January 2nd 2026 After Petitioner Filed A Bond Motion. As of February 2nd 2026, Petitioner still has not been Served With A Written Decision Ordering His Continued Detention or Release.
18. On Date 1/13/26 I went to court for a bond hearing where DHS confirmed My case is under this jurisdiction and ended with the honorable judge Andrew Hewitt Stating He would Issue either a written Decision I will receive in the mail or bring me back for an oral decision before him. There is no court date set currently for either my asylum case or bond decision and I have not received mail here at Folkston from the courts despite both the judge's clerk and DHS sending notices and papers to me.

LEGAL FRAME WORK FOR RELIEF SOUGHT

19. In Zadavyds v. Davis, 533 U.S. 678 (2001), the U.S Supreme Court held That six Months is presumptively reasonable period during which ICE may detain aliens In order to effectuate removal. Id. At 702. In Clarke v. Martinez, 543 U.S 371 (2005) The Supreme Court Held That Its Ruling in Zadvydas Applies equally to Inadmissible Aliens. Department Of Homeland Security administrative regulations as recognize that the HQPDU has a six month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 C.F.R § 241.13(b)(2)(ii).
20. Petitioner was Allegedly given a final Removal order on February 6th 2024, despite the Petitioners ongoing asylum case. Therefore, the six month presumptively reasonable removal period for petitioner ended on August 6th 2024.

CLAIM FOR RELIEF COUNT ONE STATUTORY VIOLATION

1. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.
2. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C § 1231(a)(6) as Interpreted by the Supreme Court in Zadvydas. The Six month presumptively reasonable period for removal to Trinidad And Tobago or any other country is not significantly likely to occur in the reasonably foreseeable future. The Supreme Court held in Zadvydas And Martinez that I.C.E's continued Detention of someone like Petitioner under such circumstances is unlawful.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

3. Petitioner Re-alleges and incorporates by reference paragraphs 1 Through 22 above.

4. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation violations of the core liberty interest in freedom from bodily restraint.
5. The due process clause of the fifth amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While respondent would have an interest in detaining petitioner in order to effectuate removal, That interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the foreseeable future. Zadvydas recognized ICE May continue to Detain Aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an Alien is only six months. Petitioner has already been detained in excess of 6 months and petitioner's removal is not significantly likely to occur in the reasonably foreseeable future.

COUNT THREE

PROCEEDURAL DUE PROCESS VIOLATIONS

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.
27. Under the Due Process Clause of The Fifth Amendment, An Alien is entitled to a timely and meaningful opportunity to demonstrate the s/he should not be detained. Petitioner in this case has been denied that opportunity as no decision was issued at or after hearing to his knowledge. ICE does not make decisions concerning alien's custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. I have not received a decision or letter from HQPD. Further, Respondent's have Failed To Acknowledge or act upon the Petitioner's administrative request for release in a timely matter. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates Zadvydas. A Number of courts have identified a substantial bias within I.C.E toward the continued detention of aliens, raising the risk of an erroneous deprivation to Unconstitutionally high levels. See, e.g Phan v reno, 56 F. Supp.2d 1149, 1157 (W.D Wash. 1999) ("ICE does not meaningfully and impartially review the Petitioners' custody status."); St.John v. McElroy, 917 F. Supp. 243, 251 (S.D.N.Y 1996) ("Due to political and community pressure, ICE, an executive agency, Has Every Incentive to continue to detain aliens with aggravated Felony convictions, Even Though they have served their sentences, on the suspicion that they may continue to pose a danger to the community."); See also Rivera V. Demore, No. C 99-3042 TEH, 1999 WL 52117, *7 (N.D. Cal. Jul.13,1999)
(Procedural Due Process requires that alien release determination be made by impartial adjudicator due to agency bias).

PRAYER FOR RELIEF WHEREFORE, Petitioner prays that this court grant the following relief:

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

- 1) Assume Jurisdiction over this matter
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner
- 4) Award petitioner Attorney's fees and cost under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C § 2412, And on any other basis justified under law; and
- 5) Grant any other and further relief that this Court deems just and proper.

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

John Teha
Petitioner

2/6/26
Date executed

ARGUMENT

14. This action arises under the constitution of the united states and the immigration and nationality Act (“INA”) §§ 101-507, 8 U.S.C. § 1101-1537, amended by the illegal immigration Reform and immigrant responsibility act of 1996, pub. L. No.104-208, 110 Stat 3009-1570.
15. This court has jurisdiction under 28 U.S.C. §2241, the suspension clause, U.S. Const. Art. I § 9, cl.2, and 28 U.S.C. § 1331, as petitioner is presently in custody under color of the authority of the united states, and petitioner's custody is in violation of the constitution, laws, or treaties of the united states. See *Zadvydas*, 566 U.S. 678. This court may grant relief under 28 U.S.C. §2241 (habeas corpus), 5 U.S.C § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act)
16. The due process clause applies to all persons in the united states , “whether their presence here is lawful, unlawful, temporary, or permanent”. *Zadvydas*, 533 U.S. At 693. In *zadvydas*, the supreme court emphasized , “[F]reedom from imprisonment-from government custody,detention,or other forms of physical restraint lies at the heart of the liberty that [the due process] clause protects.” 533 U.S. At 690 (citing *Foucha v. Louisiana*, 504 U.S.71,80 (1992)). A person at risk of suffering, a serious loss being given notice and an opportunity to be heard ,in a meaningful manner and at a meaningful time,is the essence of procedural due process. *Mathew v Eldridge* ,424 U.S. 319,335,96S. Ct. 893, 47L Ed.2d 18 (1976).
17. Courts have found that when ice fails to follow its own regulations in revoking release , the detention is unlawful, and the petitioner's release must be ordered. See *Ceesay v. kurzdorfer*. 781 F. Supp.3d.137,169-170 C.W.D.N.Y. 2025; *Rombat v. Souza*, 296 F. Supp. 3d 383, 387 C D. Moss. 2017; *M.S.L. V. Bostock*, N06: 25 Cv-01204-AA,2025 U.S. Dist. Lexis 162519, 2025 WL 2430267, at 11 C.D. Or Aug.21,2025).
18. The plain language of 8 C.F.R 24.13(i) and section 241.4(i) state that upon revocation, the alien will be notified of the reasons for revocation of his or her release. After being detained, non citizens are provided “an opportunity to respond to the reasons for revocation stated in the notification of revocation. “ 8 C.F.R § 241.4 (i)(i). It would be impossible for petitioner to

challenge and successfully overcome I.C.E.'s reasons for revoking his release if he is never informed of those reasons. Over a 180 days in re-detainment, I.C.E. Haven't even notified petitioner that his order of supervision has been terminated let alone why. The government failed to provide petitioner with a prompt informal interview, which prevented him from contesting his revocation as required by 8 C.F.R. § 241.4(i)(i).

19. It is well established that government agencies must follow their own regulations. *Morton v. Ruiz*, 415 U.S. 199, 235, 94S. Ct 1055, 39 L. Ed. 2d 270 (1974) (“where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures. This is so even where the internal procedures are possibly more rigorous than otherwise would be required.

20. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal “shall” be detained during the first 90 days-the “removal period” -and they “shall” be removed during that period if a noncitizen falls within certain broad categories of removability or is determined “to be a risk to the community or unlikely to comply with the order of removal.” 8 U.S.C. § 1231 (a)(6).

21. In *Zadvydas*, the supreme court construed 8 U.S.C. § 1231 (a)(6), to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. 678. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to the government to “respond with evidence sufficient to rebut [the alien's] showing.” *Id* at 701.

22. Courts have rejected conclusory claims by ICE which claim, without submitting concrete factual information about working with the state department on a third country removal, scheduled flights, or repatriation agreements, that removal is imminent. “[A] theoretical possibility of eventually being removed does not satisfy the government's burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future.” *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020) (internal quotation marks and citation omitted). “[I]f [ICE] has no idea of when it might reasonably expect petitioner to be removed, [a] court certainly cannot

conclude that [a] removal is likely to occur -or even that it might occur- in the reasonably foreseeable future.” Id.at *5 (internal quotation marks and citation omitted).

23. See *Tai truong v. Noem*, 2025 U.S. LEXIS 209266 (ordering immediate release of petitioner from custody, under the same conditions as his existing order of supervision because the government failed to follow its own regulations in re-detaining truong by failing to: (1) state an adequate basis to revoke petitioner's supervised release pursuant to 8 C.F.R. §241.4(i); (2) provide timely notice of revocation of petitioner's order of supervision; and (3) provide petitioner with a “prompt” informal interview , which prevented him from contesting his revocation, as required under 8 C.F.R. § 241.4 (i)(i). The court noted that in doing so, the government violated petitioner's constitutional due process rights

24. In *Sering Ceesay v. kurzdorfer* , 781 F. Supp. 3D 137 the government answered Yes forcefully to the question of whether a noncitizen subject to a final order of removal and released on a order of supervision is entitled to due process when the government decides-in its discretion-to revoke that release. While the united states department of homeland security might want to enforce this country's immigration laws efficiently, it cannot do that at the expense of fairness and due process. See *united states ex rel Accardi v. shaughessy*, 347 U.S, 260, 266-68, 745. Ct. 499, 98L. Ed. 681 (1954), As the framers recognized centuries ago, fair process-not just the correct outcome-matters. After all, without due process, there is no way to tell whether the result is in fact correct.

25. *Tabatabaee v. Noem*, 2025 U.S. Dist. LEXIS 234668 (ordering release of petitioner whom the government did not tell why his supervision was revoked or give him an opportunity to respond to the reason his supervision was revoked.

26. *Gomez Barco v. witte*, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had not been able to secure necessary travel documents , noting that the Ice officer “clearly has no factual basis for his “belief” that there is no foreseeable impediment to petitioner's removal or that her removal is imminent ,” and that there was no foundation for the “expectation” that the COVID 19 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same). In granting Ms. Balza's release, the court considered and rejected a conclusory declaration by a local ICE Assistant field officer that removal was imminent. *Id.* At *5, in *Alexis v. Smith*, the petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane . The haitian government had an issue with identity documents and it was unknown when that would be resolved . The magistrate did not credit ICE's vague statements that it was “endeavoring to rectify the issue” and concluded there was no end in sight for detention, and recommended release. The District Court judge agreed and ordered release, ICE then released Mr. Alexis on an order of supervised release and moved to get the judgement vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District judge on this subject.
27. As the length of detention grows, the period of time that would be considered the “reasonable foreseeable future” shrinks. See, e.g., *Zadvydas*, 533 U.S. At 701 (stating that as the length of time in detention grows “what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”), *Senor*, 401 F. Supp. 3D at 430 (“[T]he passage of time combined with the government [being] no closer to.....repatriating [a detainee] than they were once they first took him into custody ’ [is] sufficient to meet that “initial burden””) *lawrikow*, 2009 WL 2905549, at *12.