

Hannah Vickner Hough
1511 3rd Ave Suite 788
Seattle, WA 98101
(206) 445-9771
Email: hhough@cair.com

Attorney for Petitioner

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
IN SEATTLE**

Mshafiq Msharif,

Petitioner,

v.

DREW BOSTOCK, Field Office Director of
Enforcement and Removal
Operations, SEATTLE Field Office,
Immigration and Customs Enforcement;
Markwayne MULLIN, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION
REVIEW; BRUCE SCOTT, Warden, Northwest
Immigration and Customs Enforcement
Processing Center,

Respondents.

Case No. 2:26-cv-1121

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITION FOR HABEAS CORPUS - 1 -
No. 2:26-cv-1121

CAIR-Washington
1511 Third Ave., Suite 788

Seattle, WA 98101

INTRODUCTION

1. Petitioner, M Shafiq M Sharif (“Petitioner” or “Mr. Sharif”) has been incarcerated since December 24, 2024, over 15 months ago. Petitioner’s detention became unconstitutional six months after the removal order in his case became administratively final on July 2, 2025, because removal is not reasonably foreseeable. Accordingly, to vindicate Petitioner’s statutory and constitutional rights and to put an end to his continued arbitrary detention, this Court should grant the instant petition for a writ of habeas corpus.
2. Petitioner was ordered removed in July 2025 and since then has remained in detention with no steps being taken by Respondents to effectuate his removal.
3. Absent an order from this court, Petitioner may remain detained for many more months, if not years, but he is also in danger of being deported to a third country without notice in violation of due process and other rights.
4. Petitioner asks that this court find that his prolonged incarceration is unreasonable and unlawful and to order his immediate release.

JURISDICTION

5. Petitioner is detained in the custody of Respondents at Northwest Immigrant Processing Center (“NWIPC”) in Tacoma, Washington. Jurisdiction is proper pursuant to Article 1 § 9, clause 2 of the United States Constitution (the Suspension Clause); the Due Process Clause of the Fifth Amendment to the Constitution; 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article III of the Constitution. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. The government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. Moreover, sovereign immunity does not bar claims against federal officials seeking solely to prevent future violations of federal law.

1 6. The federal habeas statute empowers this Court to decide the legality of Petitioner’s detention
2 and directs courts to “hear and determine the facts” of a habeas petition and to “dispose of the
3 matter as law and justice require.” 28 U.S.C. § 2243; see also *I.N.S. v. St. Cyr*, 533 U.S. 289,
4 301 (2001) (“[A]t its historical core, the writ of habeas corpus has served as a means of
5 reviewing the legality of Executive detention, and it is in that context that its protections have
6 been strongest.”). The common law gave courts power to release a petitioner to bail even absent
7 a statute contemplating such release. *Wright v. Henkel*, 190 U.S. 40, 63 (1903) (“[T]he Queen’s
8 Bench had, ‘independently of statute, by the common law, jurisdiction to admit to bail.’”) (quoting *Queen v. Spilsbury*, 2 Q.B. 615 (1898)).

10 VENUE

- 11 7. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973),
12 venue lies in the United States District Court for the Western District of Washington the judicial
13 district in which Petitioner currently is detained.
- 14 8. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are
15 employees, officers, and agencies of the United States, and because a substantial part of the
16 events or omissions giving rise to the claims occurred in the Western District of Washington.

18 REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

- 19 9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to
20 the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If
21 an order to show cause is issued, the Court must require Respondents to file a return “within
22 three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
- 23 10. Courts have long recognized the significance of the habeas statute in protecting individuals from
24 unlawful detention. The Great Writ has been referred to as “perhaps the most important writ

known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

11. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

12. Petitioner is a citizen of Afghanistan, who was ordered removed following proceedings in July 2025. He has been detained for over fifteen (15) months and eight (8) since he was ordered removed and is currently detained at NWIPC. He is in the custody, and under the direct control of Respondents and their agents.

13. Respondent Drew Bostock is the Director of the Seattle Field Office of ICE’s Enforcement and Removal Operations division. As such, Drew Bostock is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

14. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

15. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

16. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

17. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

1 18. Respondent Bruce Scott is employed by GEO Group as Warden of the NWIDC where Petitioner
2 is detained. He has immediate physical custody of Petitioner pursuant to a contract with ICE to
3 detain noncitizens. He is sued in his official capacity.

4 **STATEMENT OF FACTS**

5 19. Petitioner is a 28-year-old citizen of Afghanistan. He has been in the United States since
6 December 24, 2024, and has remained in ICE detention since that date. Petitioner filed an
7 asylum claim based on persecution in his home country of Afghanistan where he was 

8 
9 20. Petitioner was subsequently ordered removed on July 2, 2025, after his asylum was denied.

10 Petitioner then continued to remain in ICE detention and was moved from Adams County
11 Correctional Center in Mississippi to NWIPC where he has remained with no removal or
12 release.

13
14 21. Petitioner is a national of Afghanistan, a country that is now governed by the Taliban, an
15 organization that United States has designated as a Specially Designated Global Terrorist
16 (SDGT) entity. Petitioner has no way of attaining travel documents neither do Respondents as
17 the United States has no diplomatic ties with the Taliban, the de facto government of
18 Afghanistan.

19 22. Petitioner faces the possibility of being deported to an unknown third country. Recent
20 Government practice reflects an increasing reliance on third-country removals in cases where
21 the designated country of removal will not accept the noncitizen. In such cases, the Department
22 of Homeland Security has sought to effectuate removal by transferring individuals to alternative
23 countries, sometimes without confirmed acceptance or advance notice of the receiving country.
24 See *Baltodano v. Bondi*, No. C25-1958-RSL, 2025 WL 3484769, (W.D. Wash. Dec. 4, 2025), at
25

*7–10 (describing third-country removal practices and associated risks). This practice has included attempts to remove individuals who lack valid travel documents or verified nationality, raising concerns about whether the receiving country will admit the individual upon arrival.

LEGAL FRAMEWORK

Due Process Prohibits Prolonged Immigration Detention

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

24. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom 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.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

25. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

26. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f the removal order is judicially reviewed

and if a court orders a stay of the removal of the [noncitizen], the date of the court’s final order”; or “[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.”

27. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

28. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen’s due process right to liberty. 533 U.S. at 701. In this circumstance, if the noncitizen “provides 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.*

29. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at

690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

30. The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive detention based on dangerousness” is permitted “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

31. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If removal is reasonably foreseeable, “the habeas court should consider the risk of the [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.

32. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months, and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that “Congress previously doubted the constitutionality of detention for more than six months” and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

Third Country Removals

33. When an Immigration Judge orders a noncitizen removed, the Judge designates a country for removal and may list an alternate country; the designated country (or countries) are typically the noncitizen’s country (or countries) of citizenship and/or nationality. 8 U.S.C. § 1231(b)(2)(D). If ICE is unable to remove a noncitizen to any of the countries on their order of removal, the INA permits the agency to remove that noncitizen to “any country whose government will accept the [noncitizen] into the country.” 8 U.S.C. § 1231(b)(2)(E)(vii). Such removals are called “third country removals.” See *D.V.D. v. U.S. Dep’t of Homeland Sec.*, 778 F. Supp. 3d 355 (D. Mass.), opinion clarified, No. CV 25-10676-BEM, 2025 WL 1323697 (D. Mass. May 7, 2025), and opinion clarified, No. CV 25-10676-BEM, 2025 WL 1453640 (D. Mass. May 21, 2025), reconsideration denied sub nom. *D.V.D v. U.S. Dep’t of Homeland Sec.*, 786 F. Supp. 3d 223 (D. Mass. 2025).

34. The INA limits the government’s authority to effectuate third country removals under 8 U.S.C. § 1231(b)(2). Through a form of protection called “withholding of removal,” the INA prohibits the government from removing a noncitizen to any country, including a “third country,” in which the noncitizen’s “life or freedom would be threatened in that country because of the [noncitizen]’s race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A). In addition to this statutory protection, the United States’ obligations under the Convention Against Torture (“CAT”), codified by the Foreign Affairs Reform and Restructuring Act of 1988 (hereinafter “FARRA”), prohibit the government from removing a noncitizen to any country where the noncitizen would be more likely than not to be tortured. Pub. L. No. 105-277, div. G, Title XXII, §2242, 112 Stat. 2681–822 (1998) (codified as Note to 8 U.S.C. § 1231).

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Right to Due Process

35. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

36. 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.

37. Petitioner has been detained by Respondents for over 15 months and 8 months since his removal order was final. This 8-month prolonged detention has taken place *after* his removal period began.

38. Petitioner’s removal order became administratively final on July 2, 2025. The removal period began on that day and thus elapsed on January 2, 2026.

39. Petitioners’ prolonged detention is not likely to end in the reasonably foreseeable future.

Petitioner has had a removal order since mid-2025 and does not have any way to obtain travel documents as his home country of Afghanistan is under the control of the Taliban and does not at the moment have any diplomatic ties with the United States. Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and thus violates due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

40. For these reasons, Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1231(a)

41. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

1 42. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention “beyond the
2 removal period” only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also*
3 *Zadvydas*, 533 U.S. at 699 (“[O]nce removal is no longer reasonably foreseeable, continued
4 detention is no longer authorized by statute.”). Because Petitioner’s removal is not reasonably
5 foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not
6 authorized by § 1231(a).
7

8 **PRAYER FOR RELIEF**

9 Wherefore, Petitioner respectfully requests this court to grant the following:

- 10 1) Assume jurisdiction over this matter;
- 11 2) Declare that Petitioner’s ongoing prolonged detention violates the Due Process Clause of the
12 Fifth Amendment and 8 U.S.C. § 1231(a);
- 13 3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- 14 4) Enjoin Petitioner’s removal or transfer outside the jurisdiction of this Court and the United
15 States pending its adjudication of this petition;
- 16 5) Enjoin removal to a country not listed on his removal order as punitive;
- 17 6) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any
18 other basis justified under law; and
- 19 7) Grant any further relief this Court deems just and proper.
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21 Respectfully submitted,

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23 DATED: April 2, 2026
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/s/ Hannah-Vickner Hough
Hannah Vickner Hough,
State Bar of WA 60709
Attorney for Petitioner
CAIR-Washington
1511 Third Ave., Suite 788
Seattle, WA 98101

PETITION FOR HABEAS CORPUS - 12 -
No. 2:26-cv-1121

CAIR-Washington
1511 Third Ave., Suite 788

Seattle, WA 98101

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VERIFICATION

I, M Shafiq M Sharif, declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge

Date: 2026/4/1

Signature: 

PETITION FOR HABEAS CORPUS - IV

CAIR-Washington
1311 Third Ave., Suite 708
Seattle, WA 98101

CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Date: April 02, 2026

/s/ Hannah Vickner Hough

Hannah Vickner Hough,
State Bar of WA 60709
Attorney for Petitioner
CAIR-Washington
1511 Third Ave., Suite 788
Seattle, WA 98101

PETITION FOR HABEAS CORPUS - 14 -
No.

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1511 Third Ave., Suite 788

Seattle, WA 98101