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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SAMUEL AREFAYNE,

Petitioner-Plaintiff,

v.

PATRICK ZIEMER, CEO, Alvarado
Parkway Institute Behavioral Health
System; GREGORY J.
ARCHAMBEAULT, Director of the U.S.
Immigration and Customs Enforcement
San Diego Field Office; TODD LYONS,
Acting Director of U.S. Immigration and
Customs Enforcement; MARKWAYNE
MULLIN, Secretary of the U.S.
Department of Homeland Security; and
TODD BLANCHE, Attorney General of
the United States in their official capacities

Respondents-Defendants,

Case No. '26CV2357 BAS AHG
ROA #

PETITION FOR WRIT OF HABEAS CORPUS
AND ORDER TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration; Request for
Declaratory and Injunctive Relief

1 Petitioner SAMUEL AREFAYNE petitions this Court for a writ of habeas corpus under 28
2 U.S.C. section 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

3 **I. INTRODUCTION**

4 1. Petitioner, Samuel Arefayne, is a 27-year-old Eritrean national who is being
5 unlawfully detained by Respondents. He has now been subjected to prolonged and indefinite post-
6 final order detention with no significant likelihood of removal in the reasonably foreseeable future.
7 Despite having been granted Withholding of Removal to Eritrea, Respondents continue to detain him
8 without any lawful basis.

9 2. On July 11, 2025, an Immigration Judge in San Diego ordered Mr. Arefayne removed
10 but granted him Withholding of Removal to Eritrea pursuant to 8 U.S.C. § 1231(b)(3). (See Akel
11 Decl., Ex. 2.) His order of removal became administratively final on August 11, 2025, when the
12 Department of Homeland Security failed to appeal.

13 3. Since that time, Respondents have been unable to effectuate Mr. Arefayne's removal.
14 Instead, they have transferred him through multiple detention facilities across several states and
15 subjected him to coercive and unlawful conduct, including an attempted forced removal without
16 notice, without interpretation, and without informing him of his destination.

17 4. In or about January 2026, Respondents attempted to place Mr. Arefayne on an
18 international flight while fully restrained and without informing him of where he was being sent.
19 Officers told him only that he was being sent "to his country," Eritrea, despite the fact that he had
20 been granted protection from removal to that country. Fearing for his life, Mr. Arefayne experienced
21 extreme psychological distress and threw himself from the aircraft stairs in an attempt to avoid being
22 returned to Eritrea

23 5. Following this incident, Mr. Arefayne was hospitalized and later transferred to
24 detention facilities in Minnesota, where he was held in conditions that failed to provide adequate
25 mental health care. He has since been transferred back to San Diego, where he is currently detained
26 at Alvarado Parkway Institute Behavioral Health System for psychiatric treatment.

27 6. Despite being granted withholding of removal, ICE has detained him for over eight
28 months, well beyond the presumptively reasonable six-month period established by the Supreme

1 Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Respondents have failed to obtain travel
2 documents, failed to identify any lawful country of removal, and have demonstrated through their
3 own unsuccessful removal attempt that his removal is not reasonably foreseeable.

4 7. Mr. Arefayne asserts that his continued detention violates 8 U.S.C. § 1231(a)(6), as
5 interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because there is not a
6 substantial likelihood that DHS will be able to carry out his removal in the reasonably foreseeable
7 future. His prolonged detention also violates both the substantive and procedural guarantees of the
8 Fifth Amendment's Due Process Clause because it is not reasonably related to Section 1231's primary
9 purpose of ensuring his imminent removal, and ICE's internal custody review processes do not meet
10 the minimum procedural safeguards that due process requires. See *id.* At 690-91.

11 8. Accordingly, Mr. Arefayne respectfully requests this Court grant him a Writ of Habeas
12 Corpus, ordering Respondents to immediately release him from custody

13 II. JURISDICTION, AND VENUE

14 9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331
15 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and
16 art. I sec. 9, cl. 2 of the United States Constitution (Suspension Clause), as Mr. Arefayne is presently
17 in custody under the authority of the United States and challenges his detention as in violating of the
18 Constitution, laws, or treaties of the United States.

19 10. The federal district courts have jurisdiction under Section 2241 to hear habeas claims
20 by individuals challenging the lawfulness of their detention by ICE. See *Jennings v. Rodriguez*, 583
21 U.S. 281, 290-92 (2018).

22 11. Venue is proper in the Southern District of California, pursuant to 28 U.S.C. §§ 1391
23 and 2241(d) because Mr. Arefayne is detained at Alvarado Parkway Institute Behavioral Health
24 System in La Mesa, California.

25 III. REQUIREMENTS OF 28 U.S.C. § 2241, 2243

26 12. The Court must grant the petition for writ of habeas corpus or issue an order to show
27 cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. §
28 2243. If an order to show cause is issued, the Court must require respondents to file a return "within

1 three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
2 (emphasis added).

3 13. Courts have long recognized the significance of the habeas statute in protecting
4 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
5 important writ known to the constitutional law of England, affording as it does a swift and imperative
6 remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

7 14. Mr. Arefayne is “in custody: for the purpose of 28 U.S.C. § 2241 because he was
8 arrested by Respondents and remain in their legal and physical custody at Alvarado Parkway Institute
9 Behavioral Health System in La Mesa, California. He is under Respondents’ and their agents direct
10 control.

11 IV. PARTIES

12 15. Petitioner Samuel Arefayne is currently detained by Respondents at the Alvarado
13 Parkway Institute Behavioral Health System facility in La Mesa, California. Although he is physically
14 housed at that facility for mental health treatment, he remains in the legal custody and control of U.S.
15 Immigration and Customs Enforcement (“ICE”), which has authority over his detention and any
16 transfer or release decisions. Mr. Arefayne was granted withholding of removal on August 11, 2025,
17 and has been in continuous civil immigration custody since December 13, 2024.

18 16. Respondent Patrick Ziemer is the Chief Executive Officer at Alvarado Parkway
19 Institute Behavioral System in La Mesa, CA where Mr. Arefayne is currently detained. He is thus
20 Mr. Arefayne’s immediate custodian. He is sued in his official capacity.

21 17. Respondent Gregory J. Archambeault is the Director of ICE’s San Diego Field Office,
22 which has jurisdiction over ICE detention facilities in San Diego and Imperial County, including the
23 Alvarado Parkway Institute Behavioral Health System, and is thus Mr. Arefayne’s immediate
24 custodian. Respondent Archambeault exercises direct authority over Petitioner’s detention and
25 placement decisions. He is sued in his official capacity.

26 18. Respondent Todd Lyons is the Director of ICE. He is responsible for the
27 administration of ICE and the implementation and enforcement of the immigration laws, including
28

1 immigrant detention. As such, Mr. Lyons is a legal custodian of Mr. Arefayne. He is sued in his
2 official capacity.

3 19. Respondent Markwayne Mullin is the Secretary of the Department of Homeland
4 Security (DHS), which is responsible for the administration of ICE, a subunit of DHS, and the
5 implementation and enforcement of the immigration laws. As such, Mr. Mullin is the ultimate legal
6 custodian of Mr. Arefayne. He is sued in his official capacity.

7 20. Respondent Todd Blanche is the Acting Attorney General of the United States and
8 head of the Department of Justice, which encompasses the Board of Immigration Appeals and the
9 Immigration Courts. Mr. Blanche shares responsibility for implementation and enforcement of the
10 immigration laws with Respondent Mullin. Mr. Blanche is a legal custodian of Mr. Arefayne. He is
11 sued in his official capacity.

12 V. STATEMENT OF FACTS

13 21. Mr. Arefayne's habeas claim concerns his post-final order detention under 8 U.S.C.
14 § 1231(a).

15 22. Mr. Arefayne is a native and citizen of Eritrea. He was apprehended near the United
16 States border by immigration officials on December 13, 2024, and subsequently placed into removal
17 proceedings on January 20, 2025. (See Akel Decl., Ex. 1.) He has been in civil immigration detention
18 ever since.

19 23. On July 11, 2025, an Immigration Judge at the San Diego Immigration Court ordered
20 Mr. Arefayne removed and granted him Withholding of Removal to Eritrea under 8 U.S.C. §
21 1231(b)(3). (See Akel Decl., Ex. 2.). The Department of Homeland Security did not appeal that
22 decision, and the removal order became administratively final on August 11, 2025.

23 24. Following his detention at the Otay Mesa Detention Center beginning December 13,
24 2024, Mr. Arefayne remained in that facility until approximately November 2025. Thereafter,
25 Respondents transferred him through multiple facilities, including brief placements in St. Louis,
26 Arizona, and Florence, Arizona, before transferring him to the Eloy Detention Center in Arizona.

27 25. Mr. Arefayne remained at the Eloy Detention Center until approximately January 16
28 or 17, 2026. While detained at Eloy, immigration officials attempted to compel him to sign documents

1 that he did not understand. Mr. Arefayne reasonably believed that these documents related to his
2 removal to a third country.

3 26. Mr. Arefayne repeatedly refused to sign the documents and expressly requested the
4 assistance of an interpreter so that he could understand their contents. Respondents denied his
5 requests and continued to pressure him to sign documents presented in a language he did not
6 understand. Prior to these events, Mr. Arefayne had been provided notice of a custody review
7 scheduled for November 14, 2025, and was subsequently served with a Decision to Continue
8 Detention. (See Akel Decl., Exs. 3–4.)

9 27. Shortly thereafter, Respondents forcibly removed Mr. Arefayne from his housing unit
10 using multiple officers and placed him into a transport vehicle for transfer out of the facility. He was
11 transported to an airport in Texas on or about January 16 or 17, 2026.

12 28. At the airport, Mr. Arefayne was placed in full restraints, including handcuffs, waist
13 chains, and leg shackles, all connected together. He was escorted by multiple officers and prepared
14 for boarding onto an aircraft.

15 29. At no point during this process was Mr. Arefayne informed of his destination. When
16 he asked where he was being taken, officers told him only that he was being sent “to his country,”
17 Eritrea. Mr. Arefayne understood this to mean Eritrea, the country from which he had fled and to
18 which he had been granted protection from removal.

19 30. Given that Mr. Arefayne had previously been granted Withholding of Removal to
20 Eritrea and had fled that country after experiencing persecution, this statement caused him to believe
21 that he was being unlawfully returned to a country where he faced a serious risk of harm or death.

22 31. As Mr. Arefayne was ascending the stairs to board the aircraft, he experienced extreme
23 fear, distress, and hopelessness. Believing that he was being sent to his death, he threw himself from
24 the final step before entering the aircraft.

25 32. Emergency medical services were immediately called to the scene. Upon arrival,
26 medical personnel questioned immigration officers regarding why Mr. Arefayne had not been
27 informed of his destination. The officers did not provide a response.

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33. Mr. Arefayne was transported to a hospital in Texas, where he remained for approximately two days receiving medical treatment.

34. Following his discharge from the hospital, Respondents transferred Mr. Arefayne to a detention facility in Minnesota, believed to be located in Kandiyohi County or the City of Willmar.

35. While detained in Minnesota, Mr. Arefayne was held in conditions where civil immigration detainees were housed together with criminal inmates. The facility did not provide adequate mental health services despite his recent suicide attempt and documented psychological distress.

36. Mr. Arefayne remained detained in Minnesota from approximately January 22, 2026 until March 1, 2026.

37. On March 1, 2026, Respondents transferred Mr. Arefayne by airplane back to San Diego, California.

38. Upon his return to San Diego, Mr. Arefayne was placed at Alvarado Parkway Institute Behavioral Health System, where he remains detained and is currently receiving mental health treatment.

39. Since his removal order became administratively final on August 11, 2025, Respondents have been unable to effectuate his removal. They have not obtained travel documents, have not identified a lawful country of removal, and have not provided any indication that removal is likely to occur in the reasonably foreseeable future.

40. The only known attempt to remove Mr. Arefayne resulted in a failed and chaotic effort in which Respondents did not inform him of his destination, did not provide interpretation, and were unable to complete the removal process.

41. Mr. Arefayne has now been detained for well over six months following his final order of removal, and his detention continues without any meaningful progress toward removal.

VI. LEGAL FRAMEWORK

42. 8 U.S.C. § 1231 governs the detention of non-citizens “during” and “beyond” the “removal period.” 8 U.S.C. § 1231(a)(2)-(6). The “removal period” begins once a noncitizen’s removal order “becomes administratively final.” 8 U.S.C. § 1231(a)(1)(B). The removal period lasts

1 for 90 days, during which ICE “shall remove the [non-citizen] from the United States” and “shall
2 detain the [non-citizen]” as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not
3 remove the non-citizen within the 90-day removal period, the non-citizen “may be detained beyond
4 the removal period” if they meet certain criteria, such as being inadmissible or deportable under
5 specified statutory categories. 8 U.S.C. § 1231(a)(6).

6 43. To avoid indefinite post removal detention that would raise “serious constitutional
7 concerns,” the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), construed §1231(a)(6) to
8 contain an implicit time limit. *Id.* at 682. The Court held that § 1231(a)(6) authorizes detention only
9 for “a period reasonably necessary to bring about the [non-citizen]’s removal from the United States.”
10 *Id.* at 689. Six months of post-removal order detention is considered “presumptively reasonable.” *Id.*
11 at 701. However, after six months of post-removal order detention, when a noncitizen provides “good
12 reason to believe that there is no significant likelihood of removal in the reasonably foreseeable
13 future,” the burden shifts to the government to justify continued detention. *Zadvydas*, 533 U.S. at
14 701.

15 44. DHS regulations require that, before the end of the 90-day removal period, the ICE
16 field office with jurisdiction over the noncitizen’s detention must conduct a custody review to
17 determine whether the noncitizen should remain detained. See 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i).
18 If the noncitizen is not released following the 90-day custody review, jurisdiction transfers to ICE
19 Headquarters (ICE HQ), *Id.* § 241.4(c)(2), which must then conduct a custody review before or at
20 180 days of post-removal order detention. *Id.* § 241.4(k)(2)(ii). In making these custody
21 determinations, ICE considers several factors, including whether the non-citizen is likely to pose a
22 danger to the community or a flight risk if released. *Id.* § 241.4(e). If the factors in § 241.4 are met,
23 ICE must release the non-citizen under conditions of supervision. *Id.* § 241.4(j)(2).

24 45. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established
25 “special review procedures” to determine whether detained noncitizens with final removal orders are
26 likely to be removed in the reasonably foreseeable future. See *Continued Detention of Aliens Subject*
27 *to Final Orders of Removal*, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4’s custody
28 review process remained largely intact, subsection (i)(7) was added to include a supplemental review

1 procedure that ICE HQ must initiate when “the [noncitizen] submits, or the record contains,
2 information providing a substantial reason to believe that removal of a detained [noncitizen] is not
3 significantly likely in the reasonably foreseeable future.” Id. § 241.4(i)(7). Under this procedure, ICE
4 HQ evaluates the foreseeability of removal by analyzing factors such as the history of ICE’s removal
5 efforts to third countries. See Id. § 241.13(f). If ICE HQ determines that removal is not reasonably
6 foreseeable but nonetheless seeks to continue detention based on “special circumstances,” it must
7 justify the detention based on narrow grounds such as national security or public health concerns, id.
8 § 241.14(b)-(d), or by demonstrating by clear and convincing evidence before an IJ that the non-
9 citizen is “especially dangerous.”

10 VII. ARGUMENT

11 46. The Court should grant the petition and order release. DHS claims ongoing authority
12 to detain Mr. Arefayne under 8 U.S.C. § 1231(a), which governs the detention of noncitizens who
13 have an administratively final order of removal. However, it has now been over 8 months since his
14 removal order became administratively final. Mr. Arefayne asserts that his continued detention
15 violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S.
16 678 (2001), because there is not a substantial likelihood DHS will be able to carry out his lawful
17 removal in the reasonably foreseeable future.

18 47. Mr. Arefayne has now been detained for more than six months following the date his
19 removal order became administratively final. Accordingly, his detention is no longer presumptively
20 reasonable, and the burden shifts to Respondents to demonstrate that there is a significant likelihood
21 of removal in the reasonably foreseeable future.

22 48. Respondents cannot meet that burden. They have failed to obtain travel documents,
23 failed to identify a lawful country of removal, and failed to carry out removal despite attempting to
24 do so. The only known removal attempt resulted in failure after Respondents transported Mr.
25 Arefayne to an airport without informing him of his destination or providing interpretation. These
26 failures are further reflected in Respondents’ prior decision to continue detention without identifying
27 any viable path to removal. (See Akel Decl., Ex. 4.)
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1 49. These facts constitute affirmative evidence that removal is not reasonably foreseeable.
2 Respondents' inability to execute removal, even when actively attempting to do so, demonstrates that
3 continued detention no longer serves the statutory purpose of facilitating removal.

4 50. Moreover, the manner in which Respondents attempted to carry out removal
5 underscores the absence of any lawful or coordinated removal process. Mr. Arefayne was pressured
6 to sign documents he did not understand, denied access to an interpreter, transported across multiple
7 states, and brought to an airport without being informed of his destination.

8 51. Mr. Arefayne's continued detention also violates the Due Process Clause of the Fifth
9 Amendment. Civil detention is permissible only where it is reasonably related to a legitimate
10 governmental purpose, such as ensuring removal or preventing danger to the community. Here,
11 detention no longer serves either purpose.

12 52. Detention is not reasonably related to removal because Respondents have
13 demonstrated that removal is not reasonably foreseeable. Nor is detention justified by any risk of
14 danger or flight, particularly in light of Mr. Arefayne's current placement in a psychiatric treatment
15 facility and the absence of any individualized findings supporting continued detention.

16 53. In addition, Respondents have failed to provide constitutionally adequate procedural
17 protections. Mr. Arefayne has not received a meaningful custody review supported by specific
18 evidence. Instead, Respondents have relied on conclusory determinations that he poses a risk, without
19 explanation or factual support.

20 54. Under these circumstances, Mr. Arefayne's continued detention is unlawful and must
21 be terminated.

22 VIII. PRAYER FOR RELIEF

23 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- 24 1. Assume jurisdiction over this matter;
- 25 2. Order that Mr. Arefayne shall not be transferred outside the Southern District of
26 California;
- 27 3. Issue an Order to Show Cause directing Respondents to show cause within three (3)
28 days why the Petition should not be granted;

- 1 4. Issue a writ of habeas corpus ordering Respondents to immediately release Mr.
- 2 Arefayne from custody;
- 3 5. Enter preliminary and permanent injunctive relief enjoining Respondents from further
- 4 unlawful detention of Mr. Arefayne;
- 5 6. Declare that Mr. Arefayne's detention violates 8 U.S.C. § 1231(a)(6);
- 6 7. Declare that Mr. Arefayne's violates the Due Process Clause of the Fifth Amendment;
- 7 8. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
- 8 on any other basis justified under law; and
- 9 9. Grant any further relief this Court deems just and proper.

10 Respectfully submitted,

11 Areeg Akel

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18 *Pro Bono Counsel for Petitioner*

19 Dated: April 13, 2026

VERIFICATION BY ATTORNEY ACTING ON MR. AREFAYNE'S BEHALF
PURSUANT TO U.S.C § 2242

I am submitting this verification on behalf of Mr. Samuel Arefayne because I am his attorney. As Mr. Arefayne's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 13, 2026

s/Areeg Akel