UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Emmanuel Blankson Marfo Petitioner, vs. KEVIN RAYCRAFT, Acting Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, U.S. Attorney General, Respondents.	Case No. District Judge _____ Magistrate Judge _____ A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Mr. Emmanuel Blankson Marfo, bring this petition for a Writ of Habeas Corpus to this Court, pursuant to 28 USC § 2241, to remedy his continued unlawful detention by Respondents. Petitioner hereby requests immediate release. In support of this Petition, Petitioner alleges as follows:
2. Petitioner, Mr. Marfo, is a citizen of Ghana, and resident of Columbus, Ohio, who entered the United States, in December of 2021 near Calexico, California.
3. On June 7, 2024, Mr. Marfo was granted Withholding of Removal as Mr. Marfo is part of the LGBT community and was persecuted in Ghana as a result of his sexual orientation. (See **Exhibit A**, Automated Case System Status showing Grant of Withholding of

Removal). As such, the Department of Homeland Security is prevented to deport Mr. Marfo to Ghana.

4. On May 29, 2026, Mr. Marfo was detained by ICE agents in front of his home as he was leaving to go to work at PNC bank. The agents did not present Mr. Marfo with a warrant for his arrest.
5. Mr. Marfo is currently in the physical custody of Respondents at the Corrections Center of Northwest Ohio in Stryker, Ohio.
6. Mr. Marfo has since been informed that it is the Government's intention to effectuate his deportation to Sierra Leone, a country in which Mr. Marfo has no legal status and which he has never travelled through. ICE agents informed Mr. Marfo that they had an "order" deporting him to Sierra Leone, but he was not shown or provided any paperwork indicating that that statement was true. Sierra Leone also happens to be a country where same-sex relationships are illegal.
7. Mr. Marfo's detention is not authorized by 8 U.S.C. § 1231(a)(6) and he faces unlawful detention because ICE effectuated his detention in violation of its own regulations, namely 8 C.F.R. § 1231(b)(3). Additionally, because his removal to Sierra Leone is not reasonably foreseeable and Respondent's actions violated Mr. Marfo's due process rights.
8. If DHS designates a new country of removal after the completion of removal proceedings, the INA, the Due Process Clause, and binding international agreements obligate DHS to provide reasonable notice and an opportunity to prevent a fear-based claim prior to carrying out deportation.

9. In sum, Mr. Marfo's detention violates the Immigration and Nationality Act and implementing regulations, as well as the Due Process Clause of the Fifth Amendment, and is subject to review and correction by this Court pursuant to 28 U.S.C. § 2241.

10. The Court should expeditiously grant this Petition and order Mr. Marfo's immediate release.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Stryker Ohio Correctional Center, in Stryker, Ohio.

12. This Court has jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus); 28 U.S.C. § 1331 (Federal Question); Article I, section 9, clause 2 of the United States Constitution (Suspension Clause).

13. This Court may grant relief pursuant to 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651.

VENUE

14. Venue is proper in the United States District Court for the Northern District of Ohio, specifically in the Western Division, because Petitioner is currently detained in the Stryker Ohio Correctional Center, in Stryker, Ohio. 28 U.S.C. § 2241; 28 U.S.C. § 1391; S.D. Ohio Civ. R. 82.1(b).

15. Venue is also proper in this Court because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Northern District. 28 U.S.C. § 1391(e).

REQUIREMENT OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

17. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Nola*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

18. Petitioner, Mr. Emmanuel Blanckson Marfo, native and citizen of Ghana who has resided in the United States since December 2021 and has been in immigration detention at Stryker Ohio Correctional Facility in Stryker, Ohio since May 29, 2026. After taking custody of Mr. Marfo, ICE officers verbally informed him that he would be removed to Sierra Leone with the absence of an official order of removal to Sierra Leone despite having a grant of withholding of removal to Ghana, only country that Mr. Marfo has legal status in.

19. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003). He is named in his official capacity.

20. 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.

21. Respondent Todd Blanche is the Attorney General of the United States. He 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. He is sued in his official capacity.

LEGAL FRAMEWORK

22. "[T]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001). "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that Clause protects." *Id.* at 690.

23. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that 8 U.S.C. §1231(a)(6), when "read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal form the United States." 533 U.S. at 689. If the individual's removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute." *Id.* at 699-700.

24. In *Jama v Immigration & Customs Enforcement*, 543 U.S. 335, 347 (2005), the Supreme Court found that the petitioner had satisfied his burden of showing that a significant

likelihood of removal is not reasonably foreseeable because the petitioner established that no country would accept him. Aliens under those circumstances are deemed "removable-but-unremovable" because their detention would be indefinite and potentially permanent in defiance of the letter and spirit of *Zadvydas*. *See also Demore v. Kim*, 538 U.S. at 527 (touchstone inquiry is whether removal is "no longer practically attainable.").

Statutes and Regulations

25. A non-citizen with a final order of removal "who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (titled "Supervision after 90-day period").

26. A non-citizen may only be detained past the 90-day removal period following a removal order if found to be "a risk to the community or unlikely to comply with the order of removal" or if the order of removal was on specified grounds. *Id.* § 1231(a)(6).

27. But even where initial detention past the 90-day removal period is authorized, if "removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

28. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained past the removal period: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the

alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4.

CLAIMS FOR RELIEF

COUNT 1

CONSTITUTIONAL
Substantive Due Process

29. Petitioner re-alleges and incorporates by reference all paragraphs above as if fully set forth here.

30. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. *See e.g.*, *Tam v. INS*, 14 F.Supp.2d. 1184 (E.D. Cal. 1998) (aliens retain substantive due process rights).

31. 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 Respondents 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 reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest – to effectuate the alien's removal. *See Kay v. Reno*, 94 F.Supp.2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation

can never occur, the government's primary legitimate purpose in detention – executing removal – is nonsensical.")

32. In the case of Mr. Marfo, he has never been to and never had legal status in Sierra Leone. Further, DHS has entirely neglected their duty to inform Mr. Marfo of their intention to deport him to a third country, and he has not been provided with an opportunity to present a fear-based claim. The third country designated, i.e. Sierra Leone, highly condemns and punishes individuals like Mr. Marfo for being part of the LGBT community.

COUNT 2

CONSTITUTIONAL
Procedural Due Process

33. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

34. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity.

35. Petitioner's continued detention without a significant likelihood of removal in the reasonably foreseeable future violates his due process rights guaranteed by the Fifth Amendment to the United States Constitution. *See Zadvydas v. U.S.*, 533 U.S. 678.

36. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

37. The first factor, the private interest at issue, favors Petitioner. "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 [of the Fifth Amendment] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690. Petitioner is currently detained.

38. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, the statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents did not adhere to the regulations, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior detention is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

39. The third factor, the government's interest, also favors Petitioner. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous, especially when an individual has been already granted immigration relief. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide

notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

40. For these reasons, detaining Petitioner and attempting to remove him to a third country to which he has no meaningful connection, without providing notice and a meaningful opportunity to respond, violated procedural due process under the Fifth Amendment to the U.S. Constitution. In Petitioner's case, withholding of removal was granted in 2024. DHS may be attempting to reopen removal proceedings and designate a new country of removal, but at the time of this filing they have not done so. Thus, Petitioner has been detained without having a legally enforceable removal order, nor has he been placed back into removal proceedings.

41. The government's action in detaining Petitioner pending after being granted immigration relief profoundly impacts his private interest in physical liberty and could result in indefinite detention because his removal is not reasonably foreseeable.

CLAIM 3

STATUTORY

42. 8 U.S.C. § 1231(a)(6) authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even then, if removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

43. In Petitioner's case, withholding of removal was granted. DHS may be attempting to reopen removal proceedings and designate a new country of removal, but at the time of this filing they have not done so. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6), as interpreted by the U.S. Supreme Court in *Zadvydas*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Honorable Court will:

a. Assume jurisdiction over this matter;

b. Order that Petitioner not be transferred outside of this District pending the adjudication of this Petition;

c. Issue an Order to Show Cause requiring Respondents to show cause why this Petition should not be granted within three days;

d. Declare that Petitioner's detention is unlawful;

e. Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioner from custody;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper to preserve Petitioner's statutory and constitutional rights.

Dated: June 3, 2026

Respectfully submitted,

/s/ Julie C. Nemecek

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